

106TH CONGRESS
1ST SESSION

H. R. 45

To amend the Nuclear Waste Policy Act of 1982.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. UPTON (for himself, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. HOLDEN, Mr. NORWOOD, Mr. GORDON, Mr. OXLEY, Mr. BURR of North Carolina, Mr. KLINK, Mr. WHITFIELD, Mr. SPRATT, Mr. HOEKSTRA, Mr. LIVINGSTON, Mr. KANJORSKI, Mr. BILIRAKIS, Mr. GRAHAM, Mr. PETERSON of Pennsylvania, Mr. CANADY of Florida, Mr. MANZULLO, Mr. RAMSTAD, Mr. HUTCHINSON, Mr. PICKERING, Mr. GUTKNECHT, Mr. LOBIONDO, Mr. SHIMKUS, Mr. NETHERCUTT, Mr. ROHRABACHER, Mr. FOLEY, Mr. TAYLOR of North Carolina, Mr. BEREUTER, Mr. OBERSTAR, Mr. LIPINSKI, Mr. STUPAK, Mr. RUSH, Mr. SMITH of Michigan, Mr. EHLERS, Mr. KNOLLENBERG, Mr. PORTER, Mr. SISISKY, Mr. BONIOR, Mr. CAMP, Mr. KILDEE, Mr. BARCIA, Ms. STABENOW, Mr. PETERSON of Minnesota, Ms. JACKSON-LEE of Texas, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Nuclear Waste Policy Act of 1982.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT**
 2 **OF 1982.**

3 The Nuclear Waste Policy Act of 1982 is amended
 4 to read as follows:

5 **“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

6 “(a) **SHORT TITLE.**—This Act may be cited as the
 7 ‘Nuclear Waste Policy Act of 1999’.

8 “(b) **TABLE OF CONTENTS.**—

“Sec. 1. Short title and table of contents.

“Sec. 2. Definitions.

“Sec. 3. Findings and purposes.

“TITLE I—OBLIGATIONS

“Sec. 101. Obligations of the Secretary of Energy.

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

“Sec. 201. Intermodal transfer.

“Sec. 202. Transportation planning.

“Sec. 203. Transportation requirements.

“Sec. 204. Interim storage.

“Sec. 205. Permanent disposal.

“Sec. 206. Land withdrawal.

“Sec. 207. Applicability.

“TITLE III—LOCAL RELATIONS

“Sec. 301. On-site representative.

“Sec. 302. Benefits agreements.

“Sec. 303. Content of agreements.

“Sec. 304. Acceptance of benefits.

“Sec. 305. Restriction on use of funds.

“Sec. 306. Initial land conveyances.

“Sec. 307. Payments equal to taxes.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program funding.

“Sec. 402. Office of Civilian Radioactive Waste Management.

“Sec. 403. Defense contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Water rights.

“Sec. 503. Judicial review of agency actions.

“Sec. 504. Licensing of facility expansions and transshipments.

- “Sec. 505. Siting a second repository.
- “Sec. 506. Financial arrangements for low-level radioactive waste site closure.
- “Sec. 507. Nuclear Regulatory Commission training authorization.
- “Sec. 508. Acceptance schedule.
- “Sec. 509. Subseabed or ocean water disposal.
- “Sec. 510. Separability.
- “Sec. 511. Purchase of American-made equipment and products.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

- “Sec. 601. Definitions.
- “Sec. 602. Nuclear Waste Technical Review Board.
- “Sec. 603. Functions.
- “Sec. 604. Investigatory powers.
- “Sec. 605. Compensation of members.
- “Sec. 606. Staff.
- “Sec. 607. Support services.
- “Sec. 608. Report.
- “Sec. 609. Authorization of appropriations.
- “Sec. 610. Termination of the board.

“TITLE VII—MANAGEMENT REFORM

- “Sec. 701. Management reform initiatives.
- “Sec. 702. Reporting.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

3 “(1) ACCEPT, ACCEPTANCE.—The terms ‘ac-
 4 cept’ and ‘acceptance’ mean the Secretary’s act of
 5 taking possession of spent nuclear fuel or high-level
 6 radioactive waste.

7 “(2) ACCEPTANCE SCHEDULE.—The term ‘ac-
 8 ceptance schedule’ means the schedule established in
 9 section 508 for acceptance of spent nuclear fuel and
 10 high-level radioactive waste.

11 “(3) AFFECTED INDIAN TRIBE.—The term ‘af-
 12 fected Indian tribe’ means an Indian tribe whose
 13 reservation is surrounded by or borders on an af-
 14 fected unit of local government, or whose federally

1 defined possessory or usage rights to other lands
2 outside of the border of the Indian tribe's reserva-
3 tion arising out of congressionally ratified treaties
4 may be affected by the locating of an interim storage
5 facility or repository, if the Secretary finds, upon pe-
6 tition of the appropriate government officials of the
7 Indian tribe, that such affects are both substantial
8 and adverse to the Indian tribe.

9 “(4) AFFECTED UNIT OF LOCAL GOVERN-
10 MENT.—The term ‘affected unit of local government’
11 means the unit of local government with jurisdiction
12 over the site of a repository or interim storage facil-
13 ity. Such term may, at the discretion of the Sec-
14 retary, include other units of local government that
15 are contiguous with such unit.

16 “(5) ATOMIC ENERGY DEFENSE ACTIVITY.—
17 The term ‘atomic energy defense activity’ means any
18 activity of the Secretary performed in whole or in
19 part in carrying out any of the following functions:

20 “(A) Naval reactors development.

21 “(B) Weapons activities including defense
22 inertial confinement fusion.

23 “(C) Verification and control technology.

24 “(D) Defense nuclear materials produc-
25 tion.

1 “(E) Defense nuclear waste and materials
2 byproducts management.

3 “(F) Defense nuclear materials security
4 and safeguards and security investigations.

5 “(G) Defense research and development.

6 “(H) Nuclear nonproliferation.

7 “(6) CIVILIAN NUCLEAR POWER REACTOR.—
8 The term ‘civilian nuclear power reactor’ means a ci-
9 vilian nuclear power plant required to be licensed
10 under section 103 or 104 b. of the Atomic Energy
11 Act of 1954 (42 U.S.C. 2133, 2134(b)).

12 “(7) COMMISSION.—The term ‘Commission’
13 means the Nuclear Regulatory Commission.

14 “(8) DEPARTMENT.—The term ‘Department’
15 means the Department of Energy.

16 “(9) DISPOSAL.—The term ‘disposal’ means the
17 emplacement in a repository of spent nuclear fuel,
18 high-level radioactive waste, or other highly radio-
19 active material with no foreseeable intent of recov-
20 ery, whether or not such emplacement permits recov-
21 ery of such material for any future purpose.

22 “(10) DISPOSAL SYSTEM.—The term ‘disposal
23 system’ means all natural barriers and engineered
24 barriers, and engineered systems and components,

1 that prevent the release of radionuclides from the
2 repository.

3 “(11) ENGINEERED BARRIERS AND ENGI-
4 NEERED SYSTEMS AND COMPONENTS.—The terms
5 ‘engineered barriers’ and ‘engineered systems and
6 components,’ mean man made components of a dis-
7 posal system. Such terms include the spent nuclear
8 fuel or high-level radioactive waste form, spent nu-
9 clear fuel package or high-level radioactive waste
10 package, and other materials placed over and around
11 such packages.

12 “(12) HIGH-LEVEL RADIOACTIVE WASTE.—The
13 term ‘high-level radioactive waste’ means—

14 “(A) the highly radioactive material result-
15 ing from the reprocessing in the United States
16 of spent nuclear fuel, including liquid waste
17 produced directly in reprocessing and any solid
18 material derived from such liquid waste that
19 contains fission products in sufficient con-
20 centrations;

21 “(B) the highly radioactive material result-
22 ing from atomic energy defense activities; and

23 “(C) any other highly radioactive material
24 that the Commission, consistent with existing

1 law, determines by rule requires permanent iso-
2 lation.

3 “(13) FEDERAL AGENCY.—The term ‘Federal
4 agency’ means any Executive agency, as defined in
5 section 105 of title 5, United States Code.

6 “(14) INDIAN TRIBE.—The term ‘Indian tribe’
7 means any Indian tribe, band, nation, or other orga-
8 nized group or community of Indians recognized as
9 eligible for the services provided to Indians by the
10 Secretary of the Interior because of their status as
11 Indians including any Alaska Native village, as de-
12 fined in section 3(c) of the Alaska Native Claims
13 Settlement Act (43 U.S.C. 1602(c)).

14 “(15) INTEGRATED MANAGEMENT SYSTEM.—
15 The term ‘integrated management system’ means
16 the system developed by the Secretary for the ac-
17 ceptance, transportation, storage, and disposal of
18 spent nuclear fuel and high-level radioactive waste.

19 “(16) INTERIM STORAGE FACILITY.—The term
20 ‘interim storage facility’ means a facility designed
21 and constructed for the receipt, handling, possession,
22 safeguarding, and storage of spent nuclear fuel and
23 high-level radioactive waste in accordance with title
24 II of this Act.

1 “(17) INTERIM STORAGE FACILITY SITE.—The
2 term ‘interim storage facility site’ means the specific
3 site within Area 25 of the Nevada Test Site that is
4 designated by the Secretary and withdrawn and re-
5 served in accordance with this Act for the location
6 of the interim storage facility.

7 “(18) LOW-LEVEL RADIOACTIVE WASTE.—The
8 term ‘low-level radioactive waste’ means radioactive
9 material that—

10 “(A) is not spent nuclear fuel, high-level
11 radioactive waste, transuranic waste, or byprod-
12 uct material as defined in section 11 e.(2) of
13 the Atomic Energy Act of 1954 (42 U.S.C.
14 2014(e)(2)); and

15 “(B) the Commission, consistent with ex-
16 isting law, classifies as low-level radioactive
17 waste.

18 “(19) METRIC TONS URANIUM AND MTU.—
19 The terms ‘metric tons uranium’ and ‘MTU’ mean
20 the amount of uranium in the original unirradiated
21 fuel element whether or not the spent nuclear fuel
22 has been reprocessed.

23 “(20) NUCLEAR WASTE FUND.—The term ‘Nu-
24 clear Waste Fund’ means the nuclear waste fund es-
25 tablished in the United States Treasury prior to the

1 date of enactment of this Act under section 302(c)
2 of the Nuclear Waste Policy Act of 1982.

3 “(21) OFFICE.—The term ‘Office’ means the
4 Office of Civilian Radioactive Waste Management es-
5 tablished within the Department prior to the date of
6 enactment of this Act under the provisions of the
7 Nuclear Waste Policy Act of 1982.

8 “(22) PACKAGE.—The term ‘package’ means
9 the primary container that holds, and is in direct
10 contact with, solidified high-level radioactive waste,
11 spent nuclear fuel, or other radioactive materials
12 and any overpack that are emplaced at a repository.

13 “(23) PROGRAM APPROACH.—The term ‘pro-
14 gram approach’ means the Civilian Radioactive
15 Waste Management Program Plan, dated May 6,
16 1996, as modified by this Act, and as amended from
17 time to time by the Secretary in accordance with
18 this Act.

19 “(24) REPOSITORY.—The term ‘repository’
20 means a system designed and constructed under title
21 II of this Act for the permanent geologic disposal of
22 spent nuclear fuel and high-level radioactive waste,
23 including both surface and subsurface areas at
24 which spent nuclear fuel and high-level radioactive

1 waste receipt, handling, possession, safeguarding,
2 and storage are conducted.

3 “(25) SECRETARY.—The term ‘Secretary’
4 means the Secretary of Energy.

5 “(26) SITE CHARACTERIZATION.—The term
6 ‘site characterization’ means activities, whether in a
7 laboratory or in the field, undertaken to establish
8 the geologic condition and the ranges of the param-
9 eters of a candidate site relevant to the location of
10 a repository, including borings, surface excavations,
11 excavations of exploratory facilities, limited sub-
12 surface lateral excavations and borings, and in situ
13 testing needed to evaluate the licensability of a can-
14 didate site for the location of a repository, but not
15 including preliminary borings and geophysical test-
16 ing needed to assess whether site characterization
17 should be undertaken.

18 “(27) SPENT NUCLEAR FUEL.—The term
19 ‘spent nuclear fuel’ means fuel, other than foreign
20 spent nuclear fuel as defined in section 131 f.(4) of
21 the Atomic Energy Act of 1954 (42 U.S.C.
22 2160(f)(4)), that has been withdrawn from a nuclear
23 reactor following irradiation, the constituent ele-
24 ments of which have not been separated by repro-
25 essing.

1 “(28) STORAGE.—The term ‘storage’ means re-
2 tention of spent nuclear fuel or high-level radioactive
3 waste with the intent to recover such waste or fuel
4 for subsequent use, processing, or disposal.

5 “(29) WITHDRAWAL.—The term ‘withdrawal’
6 has the same definition as that set forth in the Fed-
7 eral Land Policy and Management Act (43 U.S.C.
8 1702 et seq.).

9 “(30) YUCCA MOUNTAIN SITE.—The term
10 ‘Yucca Mountain site’ means the area in the State
11 of Nevada that is withdrawn and reserved in accord-
12 ance with this Act for the location of a repository.

13 **“SEC. 3. FINDINGS AND PURPOSES.**

14 “(a) FINDINGS.—The Congress finds that—

15 “(1) while spent nuclear fuel can be safely
16 stored at reactor sites, the expeditious movement to
17 and storage of such spent nuclear fuel at a central-
18 ized Federal facility will enhance the Nation’s envi-
19 ronmental protection;

20 “(2) while the Federal Government has the re-
21 sponsibility to provide for the centralized interim
22 storage and permanent disposal of spent nuclear fuel
23 and high-level radioactive waste to protect the public
24 health and safety and the environment, the costs of
25 such storage and disposal should be the responsibil-

1 ity of the generators and owners of such waste and
2 fuel, including the Federal Government;

3 “(3) in the interests of protecting the public
4 health and safety, enhancing the Nation’s environ-
5 mental protection, promoting the Nation’s energy se-
6 curity, and ensuring the Secretary’s ability to com-
7 mence acceptance of spent nuclear fuel and high-
8 level radioactive waste no later than June 30, 2003,
9 it is necessary for Congress to authorize the interim
10 storage facility;

11 “(4) deficit-control measures designed to limit
12 appropriation of general revenues have limited the
13 availability of the Nuclear Waste Fund for its in-
14 tended purposes; and

15 “(5) the Federal Government has the respon-
16 sibility to provide for the permanent disposal of
17 waste generated from United States atomic energy
18 defense activities.

19 “(b) PURPOSES.—The purposes of this Act are—

20 “(1) to direct the Secretary to develop an inte-
21 grated management system in accordance with this
22 Act so that the Department can accept spent nuclear
23 fuel or high-level radioactive waste for interim stor-
24 age commencing no later than June 30, 2003, and

1 for permanent disposal at a repository commencing
2 no later than January 17, 2010;

3 “(2) to provide for the siting, construction, and
4 operation of a repository for permanent geologic dis-
5 posal of spent nuclear fuel and high-level radioactive
6 waste in order to adequately protect the public and
7 the environment;

8 “(3) to take those actions necessary to ensure
9 that the consumers of nuclear energy, who are fund-
10 ing the Secretary’s activities under this Act, receive
11 the services to which they are entitled and realize
12 the benefits of enhanced protection of public health
13 and safety, and the environment, that will ensue
14 from the Secretary’s compliance with the obligations
15 imposed by this Act; and

16 “(4) to provide a schedule and process for the
17 expeditious and safe development and commence-
18 ment of operation of an integrated management sys-
19 tem and any necessary modifications to the trans-
20 portation infrastructure to ensure that the Secretary
21 can commence acceptance of spent nuclear fuel and
22 high-level radioactive waste no later than June 30,
23 2003.

1 **“TITLE I—OBLIGATIONS**

2 **“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.**

3 “(a) DISPOSAL.—The Secretary shall develop and op-
4 erate a repository for the permanent geologic disposal of
5 spent nuclear fuel and high-level radioactive waste.

6 “(b) ACCEPTANCE.—The Secretary shall accept spent
7 nuclear fuel and high-level radioactive waste for storage
8 at the interim storage facility pursuant to section 204 in
9 accordance with the acceptance schedule, beginning not
10 later than June 30, 2003.

11 “(c) TRANSPORTATION.—The Secretary shall provide
12 for the transportation of spent nuclear fuel and high-level
13 radioactive waste accepted by the Secretary.

14 “(d) INTEGRATED MANAGEMENT SYSTEM.—The
15 Secretary shall expeditiously pursue the development of
16 each component of the integrated management system,
17 and in so doing shall seek to utilize effective private sector
18 management and contracting practices.

19 **“TITLE II—INTEGRATED**
20 **MANAGEMENT SYSTEM**

21 **“SEC. 201. INTERMODAL TRANSFER.**

22 “(a) TRANSPORTATION.—The Secretary shall utilize
23 heavy-haul truck transport to move spent nuclear fuel and
24 high-level radioactive waste from the mainline rail line at
25 Caliente, Nevada, to the interim storage facility site. If

1 direct rail access becomes available to the interim storage
2 facility site, the Secretary may use rail transportation to
3 meet the requirements of this title.

4 “(b) CAPABILITY DATE.—The Secretary shall de-
5 velop the capability to commence rail to truck intermodal
6 transfer at Caliente, Nevada, no later than June 30, 2003.

7 “(c) ACQUISITIONS.—The Secretary shall acquire
8 lands and rights-of-way necessary to commence intermodal
9 transfer at Caliente, Nevada.

10 “(d) REPLACEMENTS.—The Secretary shall acquire
11 and develop on behalf of, and dedicate to, the City of
12 Caliente, Nevada, parcels of land and rights-of-way as re-
13 quired to facilitate replacement of land and city waste-
14 water disposal activities necessary to commence inter-
15 modal transfer pursuant to this Act. Replacement of land
16 and city wastewater disposal activities shall occur no later
17 than June 30, 2003.

18 “(e) NOTICE AND MAP.—Within 6 months of the
19 date of enactment of this Act, the Secretary shall—

20 “(1) publish in the Federal Register a notice
21 containing a legal description of the sites and rights-
22 of-way to be acquired under this section; and

23 “(2) file copies of a map of such sites and
24 rights-of-way with the Congress, the Secretary of the
25 Interior, the State of Nevada, the Archivist of the

1 United States, the Board of Lincoln County Com-
2 missioners, the Board of Nye County Commis-
3 sioners, and the Caliente City Council.

4 Such map and legal description shall have the same force
5 and effect as if they were included in this Act. The Sec-
6 retary may correct clerical and typographical errors in
7 legal descriptions and make minor adjustments in the
8 boundaries.

9 “(f) IMPROVEMENTS.—The Secretary shall make im-
10 provements to existing roadways selected for heavy-haul
11 truck transport between Caliente, Nevada, and the interim
12 storage facility site as necessary to facilitate year-round
13 safe transport of spent nuclear fuel and high-level radio-
14 active waste.

15 “(g) HEAVY-HAUL TRANSPORTATION ROUTE.—

16 “(1) DESIGNATION OF ROUTE.—The route for
17 the heavy-haul truck transport of spent nuclear fuel
18 and high-level radioactive waste shall be as des-
19 ignated in the map dated July 21, 1997 (referred to
20 as ‘Heavy-Haul Route’) and on file with the Sec-
21 retary.

22 “(2) TRUCK TRANSPORTATION.—The Secretary,
23 in consultation with the State of Nevada and appro-
24 priate counties and local jurisdictions, shall establish
25 reasonable terms and conditions pursuant to which

1 the Secretary may utilize heavy-haul truck transport
2 to move spent nuclear fuel and high-level radioactive
3 waste from Caliente, Nevada, to the interim storage
4 facility site.

5 “(3) IMPROVEMENTS AND MAINTENANCE.—
6 Notwithstanding any other law—

7 “(A) the Secretary shall be responsible for
8 any incremental costs related to improving or
9 upgrading Federal, State, and local roads with-
10 in the heavy-haul transportation route utilized,
11 and performing any maintenance activities on
12 such roads, as necessary, to facilitate year-
13 round safe transport of spent nuclear fuel and
14 high-level radioactive waste; and

15 “(B) any such improvement, upgrading, or
16 maintenance activity shall be funded solely by
17 appropriations made pursuant to sections 401
18 and 403 of this Act.

19 “(h) LOCAL GOVERNMENT INVOLVEMENT.—The
20 Commission shall enter into a Memorandum of Under-
21 standing with the City of Caliente and Lincoln County,
22 Nevada, to provide advice to the Commission regarding
23 intermodal transfer and to facilitate on-site representa-
24 tion. Reasonable expenses of such representation shall be
25 paid by the Secretary.

1 **“SEC. 202. TRANSPORTATION PLANNING.**

2 “(a) TRANSPORTATION READINESS.—The Secretary
3 shall take those actions that are necessary and appropriate
4 to ensure that the Secretary is able to accept and trans-
5 port spent nuclear fuel and high-level radioactive waste be-
6 ginning not later than June 30, 2003. As soon as is prac-
7 ticable following the enactment of this Act, the Secretary
8 shall analyze each specific reactor facility in the order of
9 priority established in the acceptance schedule, and de-
10 velop a logistical plan to assure the Secretary’s ability to
11 transport spent nuclear fuel and high-level radioactive
12 waste, using routes that minimize, to the maximum prac-
13 ticable extent and consistent with Federal requirements
14 governing transportation of hazardous materials, trans-
15 portation of spent nuclear fuel and high-level radioactive
16 waste through populated areas.

17 “(b) TRANSPORTATION PLANNING.—

18 “(1) IN GENERAL.—In conjunction with the de-
19 velopment of the logistical plan in accordance with
20 subsection (a), the Secretary shall update and mod-
21 ify, as necessary, the Secretary’s transportation in-
22 stitutional plans to ensure that institutional issues
23 are addressed and resolved on a schedule to support
24 the commencement of transportation of spent nu-
25 clear fuel and high-level radioactive waste to the in-
26 terim storage facility no later than June 30, 2003.

1 Among other things, such planning shall provide a
2 schedule and process for addressing and implement-
3 ing, as necessary, transportation routing plans,
4 transportation contracting plans, transportation
5 training in accordance with section 203, and trans-
6 portation tracking programs.

7 “(2) RAIL ROUTES.—Not later than one year
8 after the date of the enactment of this Act, the Sec-
9 retary of Transportation shall establish procedures
10 for the selection of preferred rail routes for the
11 transportation of spent nuclear fuel and high-level
12 radioactive waste to the interim storage site and the
13 repository site. Such procedures shall be established
14 in consultation with the designated emergency serv-
15 ices planning management official for any State or
16 Indian tribe affected by the rail routes selected.

17 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

18 “(a) PACKAGE CERTIFICATION.—No spent nuclear
19 fuel or high-level radioactive waste may be transported by
20 or for the Secretary under this Act except in packages that
21 have been certified for such purposes by the Commission.

22 “(b) STATE NOTIFICATION.—The Secretary shall
23 abide by regulations of the Commission regarding advance
24 notification of State and local governments prior to trans-

1 portation of spent nuclear fuel or high-level radioactive
2 waste under this Act.

3 “(c) TECHNICAL ASSISTANCE.—

4 “(1) IN GENERAL.—The Secretary shall provide
5 technical assistance and funds to States, affected
6 units of local government, and Indian tribes through
7 whose jurisdiction the Secretary plans to transport
8 substantial amounts of spent nuclear fuel or high-
9 level radioactive waste for training for public safety
10 officials of appropriate units of local government.
11 Training shall cover procedures required for safe
12 routine transportation of these materials, as well as
13 procedures for dealing with emergency response situ-
14 ations. The Secretary’s duty to provide technical and
15 financial assistance under this subsection shall be
16 limited to amounts specified in annual appropria-
17 tions.

18 “(2) EMPLOYEE ORGANIZATIONS.—

19 “(A) IN GENERAL.—The Secretary shall
20 provide technical assistance and funds for train-
21 ing directly to nonprofit employee organiza-
22 tions, voluntary emergency response organiza-
23 tion, and joint labor-management organizations
24 that demonstrate experience in implementing
25 and operating worker health and safety training

1 and education programs and demonstrate the
2 ability to reach and involve in training pro-
3 grams target populations of workers who are or
4 will be directly engaged in the transportation of
5 spent nuclear fuel and high-level radioactive
6 waste or emergency response or post-emergency
7 response with respect to such transportation.

8 “(B) TRAINING.—Training under this
9 paragraph—

10 “(i) shall cover procedures required
11 for safe routine transportation of materials
12 and procedures for dealing with emergency
13 response situations;

14 “(ii) shall be consistent with any
15 training standards established by the Sec-
16 retary of Transportation; and

17 “(iii) shall include—

18 “(I) a training program applica-
19 ble to persons responsible for respond-
20 ing to emergency situations occurring
21 during the removal and transportation
22 of spent nuclear fuel and high-level
23 radioactive waste;

24 “(II) instruction of public safety
25 officers in procedures for the com-

1 mand and control of the response to
2 any incident involving such fuel or
3 waste; and

4 “(III) instruction of radiological
5 protection and emergency medical per-
6 sonnel in procedures for responding to
7 an incident involving spent nuclear
8 fuel or high-level radioactive waste
9 being transported.

10 “(3) GRANTS.—To implement this subsection,
11 grants shall be made from the Nuclear Waste Fund.

12 “(4) MINIMIZING DUPLICATION OF EFFORT
13 AND EXPENSES.—The Secretaries of Transportation,
14 Labor, and Energy, Directors of the Federal Emer-
15 gency Management Agency and National Institute of
16 Environmental Health Sciences, the Nuclear Regu-
17 latory Commission, and Administrator of the Envi-
18 ronmental Protection Agency shall review periodi-
19 cally, with the head of each department, agency, or
20 instrumentality of the Government, all emergency re-
21 sponse and preparedness training programs of that
22 department, agency, or instrumentality to minimize
23 duplication of effort and expense of the department,
24 agency, or instrumentality in carrying out the pro-

1 grams and shall take necessary action to minimize
2 duplication.

3 “(d) USE OF PRIVATE CARRIERS.—The Secretary, in
4 providing for the transportation of spent nuclear fuel and
5 high-level radioactive waste under this Act, shall by con-
6 tract use private industry to the fullest extent possible in
7 each aspect of such transportation. The Secretary shall
8 use direct Federal services for such transportation only
9 upon a determination by the Secretary of Transportation,
10 in consultation with the Secretary, that private industry
11 is unable or unwilling to provide such transportation serv-
12 ices at a reasonable cost.

13 “(e) TRANSFER OF TITLE.—Acceptance by the Sec-
14 retary of any spent nuclear fuel or high-level radioactive
15 waste shall constitute a transfer of title to the Secretary.

16 “(f) EMPLOYEE PROTECTION.—Any person engaged
17 in the interstate commerce of spent nuclear fuel or high-
18 level radioactive waste under contract to the Secretary
19 pursuant to this Act shall be subject to and comply fully
20 with the employee protection provisions of section 20109
21 of title 49, United States Code (in the case of employees
22 of railroad carriers), and section 31105 of title 49, United
23 States Code (in the case of employees operating commer-
24 cial motor vehicles), or the Commission (in the case of all
25 other employees).

1 “(g) TRAINING STANDARD.—

2 “(1) REGULATION.—No later than 12 months
3 after the date of enactment of this Act, the Sec-
4 retary of Transportation, pursuant to authority
5 under other provisions of law, in consultation with
6 the Secretary of Labor and the Commission, shall
7 promulgate a regulation establishing training stand-
8 ards applicable to workers directly involved in the re-
9 moval and transportation of spent nuclear fuel and
10 high-level radioactive waste. The regulation shall
11 specify minimum training standards applicable to
12 workers, including managerial personnel. The regu-
13 lation shall require that the employer possess evi-
14 dence of satisfaction of the applicable training
15 standard before any individual may be employed in
16 the removal and transportation of spent nuclear fuel
17 and high-level radioactive waste.

18 “(2) SECRETARY OF TRANSPORTATION.—If the
19 Secretary of Transportation determines, in promul-
20 gating the regulation required by paragraph (1),
21 that existing Federal regulations establish adequate
22 training standards for workers, then the Secretary
23 of Transportation can refrain from promulgating ad-
24 ditional regulations with respect to worker training
25 in such activities. The Secretary of Transportation

1 and the Commission shall use their Memorandum of
2 Understanding to ensure coordination of worker
3 training standards and to avoid duplicative regula-
4 tion.

5 “(3) TRAINING STANDARDS CONTENT.—If
6 training standards are required to be promulgated
7 under paragraph (1), such standards shall, among
8 other things deemed necessary and appropriate by
9 the Secretary of Transportation, provide for—

10 “(A) a specified minimum number of hours
11 of initial off site instruction and actual field ex-
12 perience under the direct supervision of a
13 trained, experienced supervisor;

14 “(B) a requirement that onsite managerial
15 personnel receive the same training as workers,
16 and a minimum number of additional hours of
17 specialized training pertinent to their manage-
18 rial responsibilities; and

19 “(C) a training program applicable to per-
20 sons responsible for responding to and cleaning
21 up emergency situations occurring during the
22 removal and transportation of spent nuclear
23 fuel and high-level radioactive waste.

24 The Secretary of Transportation may specify an ap-
25 propriate combination of knowledge, skills, and prior

1 training to fulfill the minimum number of hours re-
2 quirements of subparagraphs (A) and (B).

3 “(4) EMERGENCY RESPONDER TRAINING
4 STANDARDS.—The training standards for persons
5 responsible for responding to emergency situations
6 occurring during the removal and transportation of
7 spent nuclear fuel and high-level radioactive waste
8 shall, in accordance with existing regulations, ensure
9 their ability to protect nearby persons, property, or
10 the environment from the effects of accidents involv-
11 ing spent nuclear fuel and high-level radioactive
12 waste.

13 “(5) AUTHORIZATION.—There is authorized to
14 be appropriated to the Secretary of Transportation,
15 from general revenues, such sums as may be nec-
16 essary to perform his duties under this subsection.

17 **“SEC. 204. INTERIM STORAGE.**

18 “(a) AUTHORIZATION.—The Secretary shall design,
19 construct, and operate a facility for the interim storage
20 of spent nuclear fuel and high-level radioactive waste at
21 the interim storage facility site. The interim storage facil-
22 ity shall be subject to licensing pursuant to the Atomic
23 Energy Act of 1954 (42 U.S.C. 2011 et seq.) in accord-
24 ance with the Commission’s regulations governing the li-
25 censing of independent spent fuel storage installations and

1 shall commence operation in phases by June 30, 2003.
2 The interim storage facility shall store spent nuclear fuel
3 and high-level radioactive waste until the Secretary is able
4 to transfer such fuel and waste to the repository.

5 “(b) DESIGN.—The design of the interim storage fa-
6 cility shall provide for the use of storage technologies li-
7 censed or certified by the Commission for use at the in-
8 terim storage facility as necessary to ensure compatibility
9 between the interim storage facility and contract holders’
10 spent nuclear fuel and facilities, and to facilitate the Sec-
11 retary’s ability to meet the Secretary’s obligations under
12 this Act.

13 “(c) LICENSING.—

14 “(1) PHASES.—The interim storage facility
15 shall be licensed by the Commission in two phases
16 in order to commence operations no later than June
17 30, 2003.

18 “(2) FIRST PHASE.—No later than 12 months
19 after the date of enactment of this Act, the Sec-
20 retary shall submit to the Commission an application
21 for a license for the first phase of the interim stor-
22 age facility. The license issued for the first phase of
23 the interim storage facility shall have a term of 20
24 years. The interim storage facility licensed in the
25 first phase shall have a capacity of not more than

1 10,000 MTU. The Commission shall issue a final de-
2 cision granting or denying the application for the
3 first phase license no later than 36 months from the
4 date of the submittal of the application for such li-
5 cense.

6 “(3) SECOND PHASE.—The Secretary shall sub-
7 mit to the Commission an application for a license
8 for the second phase interim storage facility. The li-
9 cense for the second phase facility shall authorize a
10 storage capacity of 40,000 MTU. The license for the
11 second phase shall have an initial term of up to 100
12 years, and shall be renewable for additional terms
13 upon application of the Secretary.

14 “(d) ADDITIONAL AUTHORITY.—

15 “(1) CONSTRUCTION.—For the purpose of com-
16 plying with subsection (a), the Secretary may com-
17 mence site preparation for the interim storage facil-
18 ity as soon as practicable after the date of enact-
19 ment of this Act and shall commence construction of
20 the first phase of the interim storage facility subse-
21 quent to submittal of the license application except
22 that the Commission shall issue an order suspending
23 such construction at any time if the Commission de-
24 termines that such construction poses an unreason-
25 able risk to public health and safety or the environ-

1 ment. The Commission shall terminate all or part of
2 such order upon a determination that the Secretary
3 has taken appropriate action to eliminate such risk.

4 “(2) FACILITY USE.—Notwithstanding any oth-
5 erwise applicable licensing requirement, the Sec-
6 retary may utilize any facility owned by the Federal
7 Government on the date of enactment of this Act
8 and within the boundaries of the interim storage fa-
9 cility site, in connection with an imminent and sub-
10 stantial endangerment to public health and safety at
11 the interim storage facility prior to commencement
12 of operations during the second phase.

13 “(e) NATIONAL ENVIRONMENTAL POLICY ACT OF
14 1969.—

15 “(1) PRELIMINARY DECISIONMAKING ACTIVI-
16 TIES.—The Secretary’s activities under this section,
17 including the selection of a site for the interim stor-
18 age facility, the preparation and submittal of any li-
19 cense application, and the construction and oper-
20 ation of any facility shall be considered preliminary
21 decisionmaking activities for purposes of the Na-
22 tional Environmental Policy Act of 1969 (42 U.S.C.
23 4321 et seq.). No such activity shall require the
24 preparation of an environmental impact statement
25 under section 102(2)(C) of the National Environ-

1 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C))
2 or require any environmental review under subpara-
3 graph (E) or (F) of such Act.

4 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

5 “(A) FINAL DECISION.—A final decision of
6 the Commission to grant or deny a license ap-
7 plication for the first or second phase of the in-
8 terim storage facility shall be accompanied by
9 an Environmental Impact Statement prepared
10 under section 102(2)(C) of the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C.
12 4332(2)(C)). In preparing such Environmental
13 Impact Statement, the Commission—

14 “(i) shall assume that 40,000 MTU
15 will be stored at the facility; and

16 “(ii) shall analyze the impacts of the
17 transportation of spent nuclear fuel and
18 high-level radioactive waste to the interim
19 storage facility in a generic manner.

20 “(B) CONSIDERATIONS.—Such Environ-
21 mental Impact Statement shall not consider—

22 “(i) the need for the interim storage
23 facility, including any individual compo-
24 nent thereof;

1 “(ii) the time of the initial availability
2 of the interim storage facility;

3 “(iii) any alternatives to the storage
4 of spent nuclear fuel and high-level radio-
5 active waste at the interim storage facility;

6 “(iv) any alternatives to the site of
7 the facility as designated by the Secretary
8 in accordance with subsection (a);

9 “(v) any alternatives to the design cri-
10 teria for such facility or any individual
11 component thereof, as specified by the Sec-
12 retary in the license application; or

13 “(vi) the environmental impacts of the
14 storage of spent nuclear fuel and high-level
15 radioactive waste at the interim storage fa-
16 cility beyond the initial term of the license
17 or the term of the renewal period for which
18 a license renewal application is made.

19 “(f) JUDICIAL REVIEW.—Judicial review of the Com-
20 mission’s environmental impact statement under the Na-
21 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.) shall be consolidated with judicial review of the
23 Commission’s licensing decision. No court shall have juris-
24 diction to enjoin the construction or operation of the in-

1 interim storage facility prior to its final decision on review
2 of the Commission’s licensing action.

3 “(g) WASTE CONFIDENCE.—The Secretary’s obliga-
4 tion to construct and operate the interim storage facility
5 in accordance with this section and the Secretary’s obliga-
6 tion to develop an integrated management system in ac-
7 cordance with the provisions of this Act, shall provide suf-
8 ficient and independent grounds for any further findings
9 by the Commission of reasonable assurance that spent nu-
10 clear fuel and high-level radioactive waste will be disposed
11 of safely and on a timely basis for purposes of the Com-
12 mission’s decision to grant or amend any license to operate
13 any civilian nuclear power reactor under the Atomic En-
14 ergy Act of 1954 (42 U.S.C. 2011 et seq.).

15 “(h) SAVINGS CLAUSE.—Nothing in this Act shall af-
16 fect the Commission’s procedures for the licensing of any
17 technology for the dry storage of spent nuclear fuel at the
18 site of any civilian nuclear power reactor as adopted by
19 the Commission under section 218 of the Nuclear Waste
20 Policy Act of 1982, as in effect prior to the date of the
21 enactment of this Act. The establishment of such proce-
22 dures shall not preclude the licensing, under any applica-
23 ble procedures or rules of the Commission in effect prior
24 to such establishment, of any technology for the storage

1 of civilian spent nuclear fuel at the site of any civilian nu-
 2 clear power reactor.

3 **“SEC. 205. PERMANENT DISPOSAL.**

4 “(a) SITE CHARACTERIZATION.—

5 “(1) GUIDELINES.—The guidelines promul-
 6 gated by the Secretary and published at 10 CFR
 7 part 960 are annulled and revoked and the Sec-
 8 retary shall make no assumptions or conclusions
 9 about the licensability of the Yucca Mountain site as
 10 a repository by reference to such guidelines.

11 “(2) SITE CHARACTERIZATION ACTIVITIES.—
 12 The Secretary shall carry out appropriate site char-
 13 acterization activities at the Yucca Mountain site in
 14 accordance with the Secretary’s program approach
 15 to site characterization if the Secretary modifies or
 16 eliminates those site characterization activities de-
 17 signed to demonstrate the suitability of the site
 18 under the guidelines referenced in paragraph (1).

19 “(3) DATE.—No later than December 31,
 20 2003, the Secretary shall apply to the Commission
 21 for authorization to construct a repository that will
 22 commence operations no later than January 17,
 23 2010. If, at any time prior to the filing of such ap-
 24 plication, the Secretary determines that the Yucca
 25 Mountain site cannot satisfy the Commission’s regu-

1 lations applicable to the licensing of a geologic re-
2 pository, the Secretary shall terminate site charac-
3 terization activities at the site, notify Congress and
4 the State of Nevada of the Secretary's determination
5 and the reasons therefor, and recommend to Con-
6 gress not later than 6 months after such determina-
7 tion further actions, including the enactment of leg-
8 islation, that may be needed to manage the Nation's
9 spent nuclear fuel and high-level radioactive waste.

10 “(4) MAXIMIZING CAPACITY.—In developing an
11 application for authorization to construct the reposi-
12 tory, the Secretary shall seek to maximize the capac-
13 ity of the repository.

14 “(b) LICENSING.—Within one year of the date of en-
15 actment of this Act, the Commission shall amend its regu-
16 lations governing the disposal of spent nuclear fuel and
17 high-level radioactive waste in geologic repositories to the
18 extent necessary to comply with this Act. Subject to sub-
19 section (c), such regulations shall provide for the licensing
20 of the repository according to the following procedures:

21 “(1) CONSTRUCTION AUTHORIZATION.—The
22 Commission shall grant the Secretary a construction
23 authorization for the repository upon determining
24 that there is reasonable assurance that spent nuclear

1 fuel and high-level radioactive waste can be disposed
2 of in the repository—

3 “(A) in conformity with the Secretary’s ap-
4 plication, the provisions of this Act, and the
5 regulations of the Commission;

6 “(B) with adequate protection of the
7 health and safety of the public; and

8 “(C) consistent with the common defense
9 and security.

10 “(2) LICENSE.—Following substantial comple-
11 tion of construction and the filing of any additional
12 information needed to complete the license applica-
13 tion, the Commission shall issue a license to dispose
14 of spent nuclear fuel and high-level radioactive waste
15 in the repository if the Commission determines that
16 the repository has been constructed and will
17 operate—

18 “(A) in conformity with the Secretary’s ap-
19 plication, the provisions of this Act, and the
20 regulations of the Commission;

21 “(B) with adequate protection of the
22 health and safety of the public; and

23 “(C) consistent with the common defense
24 and security.

1 “(3) CLOSURE.—After emplacing spent nuclear
2 fuel and high-level radioactive waste in the reposi-
3 tory and collecting sufficient confirmatory data on
4 repository performance to reasonably confirm the
5 basis for repository closure consistent with the Com-
6 mission’s regulations applicable to the licensing of a
7 repository, as modified in accordance with this Act,
8 the Secretary shall apply to the Commission to
9 amend the license to permit permanent closure of
10 the repository. The Commission shall grant such li-
11 cense amendment upon finding that there is reason-
12 able assurance that the repository can be perma-
13 nently closed—

14 “(A) in conformity with the Secretary’s ap-
15 plication to amend the license, the provisions of
16 this Act, and the regulations of the Commis-
17 sion;

18 “(B) with adequate protection of the
19 health and safety of the public; and

20 “(C) consistent with the common defense
21 and security.

22 “(4) POST-CLOSURE.—The Secretary shall take
23 those actions necessary and appropriate at the
24 Yucca Mountain site to prevent any activity at the

1 site subsequent to repository closure that poses an
2 unreasonable risk of—

3 “(A) breaching the repository’s engineered
4 or geologic barriers; or

5 “(B) increasing the exposure of individual
6 members of the public to radiation beyond the
7 release standard established in subsection
8 (d)(1).

9 “(c) MODIFICATION OF REPOSITORY LICENSING
10 PROCEDURE.—The Commission’s regulations shall pro-
11 vide for the modification of the repository licensing proce-
12 dure, as appropriate, in the event that the Secretary seeks
13 a license to permit the emplacement in the repository, on
14 a retrievable basis, of only that quantity of spent nuclear
15 fuel or high-level radioactive waste that is necessary to
16 provide the Secretary with sufficient confirmatory data on
17 repository performance to reasonably confirm the basis for
18 repository closure consistent with applicable regulations.

19 “(d) LICENSING STANDARDS.—Notwithstanding any
20 other provision of law, the Administrator of the Environ-
21 mental Protection Agency shall not promulgate, by rule
22 or otherwise, standards for protection of the public from
23 releases of radioactive materials or radioactivity from the
24 repository and any such standards existing on the date
25 of enactment of this Act shall not be incorporated in the

1 Commission's licensing regulations. The Commission's re-
2 pository licensing determinations for the protection of the
3 public shall be based solely on a finding whether the repos-
4 itory can be operated in conformance with the overall sys-
5 tem performance standard established in paragraph
6 (1)(A) and applied in accordance with the provisions of
7 paragraph (1)(B). The Commission shall amend its regu-
8 lations in accordance with subsection (b) to incorporate
9 each of the following licensing standards:

10 “(1) RELEASE STANDARD.—

11 “(A) ESTABLISHMENT OF OVERALL SYS-
12 TEM PERFORMANCE STANDARD.—The standard
13 for protection of the public from release of ra-
14 dioactive material or radioactivity from the re-
15 pository shall prohibit releases that would ex-
16 pose an average member of the general popu-
17 lation in the vicinity of the Yucca Mountain site
18 to an annual dose in excess of 100 millirems
19 unless the Commission, in consultation with the
20 Administrator of the Environmental Protection
21 Agency, determines by rule that such standard
22 would not provide for adequate protection of
23 the health and safety of the public and estab-
24 lishes by rule another standard which will pro-
25 vide for adequate protection of the health and

1 safety of the public. Such standard shall con-
2 stitute an overall system performance standard.

3 “(B) APPLICATION OF OVERALL SYSTEM
4 PERFORMANCE STANDARD.—The Commission
5 shall issue the license if it finds reasonable as-
6 surance that—

7 “(i) for the first 1,000 years following
8 the commencement of repository oper-
9 ations, the overall system performance
10 standard will be met based on a deter-
11 ministic or probabilistic evaluation of the
12 overall performance of the disposal system;
13 and

14 “(ii) for the period commencing after
15 the first 1,000 years of operation of the re-
16 pository and terminating at 10,000 years
17 after the commencement of operation of
18 the repository, there is likely to be compli-
19 ance with the overall system performance
20 standard based on regulatory insight
21 gained through the use of a probabilistic
22 integrated performance model that uses
23 best estimate assumptions, data, and
24 methods.

1 “(2) HUMAN INTRUSION.—The Commission
2 shall assume that, following repository closure, the
3 inclusion of engineered barriers and the Secretary’s
4 post-closure actions at the Yucca Mountain site, in
5 accordance with subsection (b)(3), shall be sufficient
6 to—

7 “(A) prevent any human activity at the
8 site that poses an unreasonable risk of breach-
9 ing the repository’s engineered or geologic bar-
10 riers; and

11 “(B) prevent any increase in the exposure
12 of individual members of the public to radiation
13 beyond allowable limits as specified in para-
14 graph (1).

15 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

16 “(1) SUBMISSION OF STATEMENT.—Construc-
17 tion and operation of the repository shall be consid-
18 ered a major Federal action significantly affecting
19 the quality of the human environment for purposes
20 of the National Environmental Policy Act of 1969
21 (42 U.S.C. 4321 et seq.). The Secretary shall submit
22 an environmental impact statement on the construc-
23 tion and operation of the repository to the Commis-
24 sion with the application for construction authoriza-
25 tion.

1 “(2) CONSIDERATIONS.—For purposes of com-
2 plying with the requirements of the National Envi-
3 ronmental Policy Act of 1969 and this section, the
4 Secretary shall not consider in the environmental
5 impact statement the need for the repository, alter-
6 native sites for the repository, the time of the initial
7 availability of the repository, or any alternatives to
8 the isolation of spent nuclear fuel and high-level ra-
9 dioactive waste in a repository.

10 “(3) ADOPTION BY COMMISSION.—The Sec-
11 retary’s environmental impact statement and any
12 supplements thereto shall, to the extent practicable,
13 be adopted by the Commission in connection with
14 the issuance by the Commission of a construction
15 authorization under subsection (b)(1), a license
16 under subsection (b)(2), or a license amendment
17 under subsection (b)(3). To the extent such state-
18 ment or supplement is adopted by the Commission,
19 such adoption shall be deemed to also satisfy the re-
20 sponsibilities of the Commission under the National
21 Environmental Policy Act of 1969, and no further
22 consideration shall be required, except that nothing
23 in this subsection shall affect any independent re-
24 sponsibilities of the Commission to protect the public
25 health and safety under the Atomic Energy Act of

1 1954 (42 U.S.C. 2011 et seq.). In any such state-
2 ment prepared with respect to the repository, the
3 Commission shall not consider the need for a reposi-
4 tory, the time of initial availability of the repository,
5 alternate sites to the Yucca Mountain site, or non-
6 geologic alternatives to such site.

7 “(f) JUDICIAL REVIEW.—No court shall have juris-
8 diction to enjoin issuance of the Commission repository
9 licensing regulations prior to its final decision on review
10 of such regulations.

11 **“SEC. 206. LAND WITHDRAWAL.**

12 “(a) WITHDRAWAL AND RESERVATION.—

13 “(1) WITHDRAWAL.—Subject to valid existing
14 rights, the interim storage facility site and the
15 Yucca Mountain site, as described in subsection (b),
16 are withdrawn from all forms of entry, appropria-
17 tion, and disposal under the public land laws, includ-
18 ing the mineral leasing laws, the geothermal leasing
19 laws, the material sale laws, and the mining laws.

20 “(2) JURISDICTION.—Jurisdiction of any land
21 within the interim storage facility site and the Yucca
22 Mountain site managed by the Secretary of the Inte-
23 rior or any other Federal officer is transferred to the
24 Secretary.

1 “(3) RESERVATION.—The interim storage facil-
2 ity site and the Yucca Mountain site are reserved for
3 the use of the Secretary for the construction and op-
4 eration, respectively, of the interim storage facility
5 and the repository and activities associated with the
6 purposes of this title.

7 “(b) LAND DESCRIPTION.—

8 “(1) BOUNDARIES.—The boundaries depicted
9 on the map entitled ‘Interim Storage Facility Site
10 Withdrawal Map’, dated July 28, 1995, and on file
11 with the Secretary, are established as the boundaries
12 of the interim storage facility site.

13 “(2) BOUNDARIES.—The boundaries depicted
14 on the map entitled ‘Yucca Mountain Site With-
15 drawal Map,’ dated July 28, 1995, and on file with
16 the Secretary, are established as the boundaries of
17 the Yucca Mountain site.

18 “(3) NOTICE AND MAPS.—Within 6 months of
19 the date of enactment of this Act, the Secretary
20 shall—

21 “(A) publish in the Federal Register a no-
22 tice containing a legal description of the interim
23 storage facility site; and

24 “(B) file copies of the maps described in
25 paragraph (1), and the legal description of the

1 interim storage facility site with the Congress,
2 the Secretary of the Interior, the Governor of
3 Nevada, and the Archivist of the United States.

4 “(4) NOTICE AND MAPS.—Concurrent with the
5 Secretary’s application to the Commission for au-
6 thority to construct the repository, the Secretary
7 shall—

8 “(A) publish in the Federal Register a no-
9 tice containing a legal description of the Yucca
10 Mountain site; and

11 “(B) file copies of the maps described in
12 paragraph (2), and the legal description of the
13 Yucca Mountain site with the Congress, the
14 Secretary of the Interior, the Governor of Ne-
15 vada, and the Archivist of the United States.

16 “(5) CONSTRUCTION.—The maps and legal de-
17 scriptions of the interim storage facility site and the
18 Yucca Mountain site referred to in this subsection
19 shall have the same force and effect as if they were
20 included in this Act. The Secretary may correct cler-
21 ical and typographical errors in the maps and legal
22 descriptions and make minor adjustments in the
23 boundaries of the sites.

1 **“SEC. 207. APPLICABILITY.**

2 “Nothing in this Act shall affect the application of
3 chapter 51 of title 49, United States Code; part A of sub-
4 title V of title 49, United States Code; part B of subtitle
5 VI of title 49, United States Code; and title 23, United
6 States Code.

7 **“TITLE III—LOCAL RELATIONS**

8 **“SEC. 301. ON-SITE REPRESENTATIVE.**

9 “The Secretary shall offer to Nye County, Nevada,
10 an opportunity to designate a representative to conduct
11 on-site oversight activities at the Yucca Mountain site.
12 Reasonable expenses of such representatives shall be paid
13 by the Secretary.

14 **“SEC. 302. BENEFITS AGREEMENTS.**

15 “(a) IN GENERAL.—

16 “(1) SEPARATE AGREEMENTS.—The Secretary
17 shall offer to enter into separate agreements with
18 Nye County, Nevada, and Lincoln County, Nevada,
19 concerning the integrated management system.

20 “(2) AGREEMENT CONTENT.—Any agreement
21 shall contain such terms and conditions, including
22 such financial and institutional arrangements, as the
23 Secretary and agreement entity determine to be rea-
24 sonable and appropriate and shall contain such pro-
25 visions as are necessary to preserve any right to par-

1 ticipation or compensation of Nye County, Nevada,
 2 and Lincoln County, Nevada.

3 “(b) AMENDMENT.—An agreement entered into
 4 under subsection (a) may be amended only with the mu-
 5 tual consent of the parties to the amendment and termi-
 6 nated only in accordance with subsection (c).

7 “(c) TERMINATION.—The Secretary shall terminate
 8 an agreement under subsection (a) if any element of the
 9 integrated management system may not be completed.

10 “(d) LIMITATION.—Only 1 agreement each for Nye
 11 County, Nevada, and Lincoln County, Nevada, may be in
 12 effect at any one time.

13 “(e) JUDICIAL REVIEW.—Decisions of the Secretary
 14 under this section are not subject to judicial review.

15 **“SEC. 303. CONTENT OF AGREEMENTS.**

16 “(a) IN GENERAL.—

17 “(1) SCHEDULE.—The Secretary, subject to ap-
 18 propriations, shall make payments to the party of a
 19 benefits agreement under section 302(a) in accord-
 20 ance with the following schedule:

“BENEFITS SCHEDULE

[Amounts in millions]

Event	County
(A) Annual payments prior to first receipt of fuel	\$2.5
(B) Upon first spent fuel receipt	\$5
(C) Annual payments after first spent fuel receipt until closure of facility	\$5

1 “(2) DEFINITIONS.—For purposes of this sec-
2 tion, the term—

3 “(A) ‘spent fuel’ means high-level radio-
4 active waste or spent nuclear fuel; and

5 “(B) ‘first spent fuel receipt’ does not in-
6 clude receipt of spent fuel or high-level radio-
7 active waste for purposes of testing or oper-
8 ational demonstration.

9 “(3) ANNUAL PAYMENTS.—Annual payments
10 prior to first spent fuel receipt under line (A) of the
11 benefit schedule shall be made on the date of execu-
12 tion of the benefits agreement and thereafter on the
13 anniversary date of such execution. Annual pay-
14 ments after the first spent fuel receipt until closure
15 of the facility under line (C) of the benefit schedule
16 shall be made on the anniversary date of such first
17 spent fuel receipt.

18 “(4) REDUCTION.—If the first spent fuel pay-
19 ment under line (B) is made within 6 months after
20 the last annual payment prior to the receipt of spent
21 fuel under line (A) of the benefit schedule, such first
22 spent fuel payment under line (B) of the benefit
23 schedule shall be reduced by an amount equal to $\frac{1}{12}$
24 of such annual payment under line (A) of the benefit
25 schedule for each full month less than 6 that has not

1 elapsed since the last annual payment under line (A)
2 of the benefit schedule.

3 “(b) CONTENTS.—A benefits agreement under sec-
4 tion 302 shall provide that—

5 “(1) the parties to the agreement shall share
6 with one another information relevant to the licens-
7 ing process for the interim storage facility or reposi-
8 tory, as it becomes available; and

9 “(2) the affected unit of local government that
10 is party to such agreement may comment on the de-
11 velopment of the integrated management system and
12 on documents required under law or regulations gov-
13 erning the effects of the system on the public health
14 and safety.

15 “(c) CONSTRUCTION.—The signature of the Sec-
16 retary on a valid benefits agreement under section 302
17 shall constitute a commitment by the United States to
18 make payments in accordance with such agreement.

19 **“SEC. 304. ACCEPTANCE OF BENEFITS.**

20 “(a) CONSENT.—The acceptance or use of any of the
21 benefits provided under this title by any affected unit of
22 local government shall not be deemed to be an expression
23 of consent, express, or denied, either under the Constitu-
24 tion of the State of Nevada or any law thereof, to the
25 siting of the interim storage facility or repository in the

1 State of Nevada, any provision of such Constitution or
 2 laws to the contrary notwithstanding.

3 “(b) ARGUMENTS.—Neither the United States nor
 4 any other entity may assert any argument based on legal
 5 or equitable estoppel, or acquiescence, or waiver, or con-
 6 sensual involvement, in response to any decision by the
 7 State of Nevada, to oppose the siting in Nevada of the
 8 interim storage facility or repository premised upon or re-
 9 lated to the acceptance or use of benefits under this title.

10 “(c) LIABILITY.—No liability of any nature shall ac-
 11 crue to be asserted against the State of Nevada, its Gov-
 12 ernor, any official thereof, or any official of any govern-
 13 mental unit thereof, premised solely upon the acceptance
 14 or use of benefits under this title.

15 **“SEC. 305. RESTRICTION ON USE OF FUNDS.**

16 “None of the funding provided under section 303
 17 may be used—

18 “(1) directly or indirectly to influence legislative
 19 action on any matter pending before Congress or a
 20 State legislature or for any lobbying activity as pro-
 21 vided in section 1913 of title 18, United States
 22 Code;

23 “(2) for litigation purposes; and

1 “(3) to support multistate efforts or other coal-
2 tion-building activities inconsistent with the purposes
3 of this Act.

4 **“SEC. 306. INITIAL LAND CONVEYANCES.**

5 “(a) CONVEYANCE OF PUBLIC LANDS.—Within 120
6 days after October 1, 2000 , the Secretary of the Interior,
7 or other agency with jurisdiction over the public lands de-
8 scribed in subsection (b), shall convey the public lands de-
9 scribed in subsection (b) to the appropriate county, unless
10 the county notifies the Secretary of the Interior or the
11 head of such other appropriate agency in writing within
12 60 days of such date of enactment that it elects not to
13 take title to all or any part of the property, except that
14 any lands conveyed to the County of Nye, County of Lin-
15 coln, or the City of Caliente under this subsection that
16 are subject to a Federal grazing permit or a similar feder-
17 ally granted privilege shall be conveyed between 60 and
18 120 days of the earliest time the Federal agency admin-
19 istering or granting the privilege would be able to legally
20 terminate such privilege under the statutes and regula-
21 tions existing on October 1, 2000, unless the Federal
22 agency, county or city, and the affected holder of the privi-
23 lege negotiate an agreement that allows for an earlier con-
24 veyance, but in no case to occur earlier than October 1,
25 2000.

1 “(b) SPECIAL CONVEYANCES.—Subject to valid exist-
2 ing rights and notwithstanding any other law, the Sec-
3 retary of the Interior or the head of the other appropriate
4 agency shall convey:

5 “(1) To the County of Nye, Nevada, the follow-
6 ing public lands depicted on the maps dated October
7 11, 1995, and on file with the Secretary:

8 “Map 1: Proposed Pahrump Industrial
9 Park Site

10 “Map 2: Proposed Lathrop Wells (Gate
11 510) Industrial Park Site

12 “Map 3: Pahrump Landfill Sites

13 “Map 4: Amargosa Valley Regional Land-
14 fill Site

15 “Map 5: Amargosa Valley Municipal Land-
16 fill Site

17 “Map 6: Beatty Landfill/Transfer station
18 Site

19 “Map 7: Round Mountain Landfill Site

20 “Map 8: Tonopah Landfill Site

21 “Map 9: Gabbs Landfill Site.

22 “(2) To the County of Lincoln, Nevada, the fol-
23 lowing public lands depicted on the maps dated Oc-
24 tober 11, 1995, and on file with the Secretary:

1 “Map 2: Lincoln County, Parcel M, Indus-
2 trial Park Site, Jointly with the City of Caliente

3 “Map 3: Lincoln County, Parcels F and G,
4 Mixed Use, Industrial Sites

5 “Map 4: Lincoln County, Parcels H and I,
6 Mixed Use and Airport Expansion Sites

7 “Map 5: Lincoln County, Parcels J and K,
8 Mixed Use, Airport and Landfill Expansion
9 Sites

10 “Map 6: Lincoln County, Parcels E and L,
11 Mixed Use, Airport and Industrial Expansion
12 Sites.

13 “(3) To the City of Caliente, Nevada, the fol-
14 lowing public lands depicted on the maps dated Oc-
15 tober 11, 1995, and on file with the Secretary:

16 “Map 1: City of Caliente, Parcels A, B, C
17 and D, Community Growth, Landfill Expansion
18 and Community Recreation Sites

19 “Map 2: City of Caliente, Parcel M, Indus-
20 trial Park Site, jointly with Lincoln County.

21 “(c) NATIONAL ENVIRONMENTAL POLICY ACT OF
22 1969.—The activities of the Secretary and the head of any
23 other Federal agency in connection with subsections (a)
24 and (b) shall be considered preliminary decision making
25 activities. No such activity shall require the preparation

1 of an environmental impact statement under section
2 102(2)(C) of the National Environmental Policy Act of
3 1969 (42 U.S.C. 4332(2)(C)) or any environmental review
4 under subparagraph (E) or (F) of section 102(2) of such
5 Act.

6 **“SEC. 307. PAYMENTS EQUAL TO TAXES.**

7 “(a) TAXABLE AMOUNTS.—In addition to financial
8 assistance provided under this title, the Secretary is au-
9 thorized to grant to any affected Indian tribe or affected
10 unit of local government an amount each fiscal year equal
11 to the amount such affected Indian tribe or affected unit
12 of local government, respectively, would receive if author-
13 ized to tax integrated management system activities, as
14 such affected Indian tribe or affected unit of local govern-
15 ment taxes the non-Federal real property and industrial
16 activities occurring within such affected unit of local gov-
17 ernment.

18 “(b) TERMINATION.—Such grants shall continue
19 until such time as all such activities, development, and op-
20 erations are terminated at such site.

21 “(c) ASSISTANCE TO INDIAN TRIBES AND UNITS OF
22 LOCAL GOVERNMENT.—

23 “(1) PERIOD.—Any affected Indian tribe or af-
24 fected unit of local government may not receive any
25 grant under subsection (a) after the expiration of

1 the 1-year period following the date on which the
2 Secretary notifies the affected Indian tribe or af-
3 fected unit of local government of the termination of
4 the operation of the integrated management system.

5 “(2) ACTIVITIES.—Any affected Indian tribe or
6 affected unit of local government may not receive
7 any further assistance under this section if the inte-
8 grated management system activities at such site are
9 terminated by the Secretary or if such activities are
10 permanently enjoined by any court.

11 **“TITLE IV—FUNDING AND** 12 **ORGANIZATION**

13 **“SEC. 401. PROGRAM FUNDING.**

14 “(a) CONTRACTS.—

15 “(1) AUTHORITY OF THE SECRETARY.—In the
16 performance of the Secretary’s functions under this
17 Act, the Secretary is authorized to enter into con-
18 tracts with any person who generates or holds title
19 to spent nuclear spent nuclear fuel or high-level ra-
20 dioactive waste of domestic origin for the acceptance
21 of title and possession, transportation, interim stor-
22 age, and disposal of such waste or spent fuel. Such
23 contracts shall provide for payment of fees to the
24 Secretary in the amounts set under paragraphs (2),
25 (3), and (4). Subsequent to the enactment of the

1 Nuclear Waste Policy Act of 1999, the contracts ex-
2 ecuted under section 302(a) of the Nuclear Waste
3 Policy Act of 1982 shall continue in effect under this
4 Act. The Secretary shall consent to an amendment
5 to such contracts as necessary to implement the pro-
6 visions of this Act.

7 “(2) NUCLEAR WASTE OFFSETTING COLLEC-
8 TION.—

9 “(A) For electricity generated by civilian
10 nuclear power reactors and sold, the Secretary
11 shall collect an aggregate amount of fees under
12 this paragraph equal to the annual level of ap-
13 propriations for expenditures on those activities,
14 consistent with subsection (d), for the fiscal
15 year beginning October 1, 1999, minus—

16 “(i) the percentage of such appropria-
17 tion required to be funded by the Federal
18 Government pursuant to section 403; and

19 “(ii) the amount of the appropriation
20 from the Nuclear Waste Fund, as author-
21 ized pursuant to paragraph (3)(B); and

22 “(B) The Secretary shall determine the
23 level of the annual fee for each civilian nuclear
24 power reactor based on the amount of elec-
25 tricity generated and sold, except that for the

1 period commencing with fiscal year 2000 and
2 continuing through the fiscal year in which dis-
3 posal at the repository commences—

4 “(i) the total average annual amount
5 of offsetting collection fees combined with
6 the nuclear waste mandatory fee collected
7 pursuant to paragraph (3), shall not ex-
8 ceed 1.0 mill per kilowatt-hour generated
9 and sold; and

10 “(ii) the total amount of offsetting
11 collection fees combined with the nuclear
12 waste mandatory fee collection pursuant to
13 paragraph (3) in any fiscal year in such
14 period shall not exceed 1.5 mill per kilo-
15 watt-hour generated and sold.

16 The cap on fees established under this subparagraph shall
17 not otherwise result in a reduction to the level of the nu-
18 clear waste mandatory fee established pursuant to para-
19 graph (3). Fees assessed pursuant to this paragraph shall
20 be paid to the Treasury of the United States and shall
21 be available for use by the Secretary pursuant to this sec-
22 tion until expended.

23 “(3) NUCLEAR WASTE MANDATORY FEE.—

24 “(A) Except as provided in subparagraph
25 (D), for electricity generated by civilian nuclear

1 power reactors and sold on or after January 7,
2 1983, the fee paid to the Secretary under this
3 paragraph shall be equal to—

4 “(i) 0.5 mill per kilowatt-hour gen-
5 erated and sold for each fiscal year begin-
6 ning October 1, 1999, and ending on Sep-
7 tember 30, 2004;

8 “(ii) 0.4 mill per kilowatt-hour gen-
9 erated and sold for each fiscal year begin-
10 ning October 1, 2004, and ending Septem-
11 ber 30, 2009; and

12 “(iii) zero mill per kilowatt-hour gen-
13 erated and sold for each fiscal year after
14 September 30, 2009, unless the Secretary
15 makes a determination pursuant to para-
16 graph (5)(A), which is adopted pursuant to
17 paragraph (7).

18 “(B) There are authorized to be appro-
19 priated from the Nuclear Waste Fund, for each
20 fiscal beginning October 1, 1999, amounts
21 equal to the amounts determined in subpara-
22 graph (A), as well as such sums as may be nec-
23 essary from the balances in the Nuclear Waste
24 Fund.

1 “(4) CAP ON PARAGRAPH (2) AND (3) FEES.—

2 The total amount of offsetting collection fees col-
3 lected pursuant to paragraph (2) and the nuclear
4 waste mandatory fee collected pursuant to para-
5 graph (3) shall not exceed 1.0 mill per kilowatt-hour
6 generated and sold.

7 “(5) ADJUSTMENTS TO THE CAP ON FEES.—

8 “(A) No later than 30 days after the be-
9 ginning of each fiscal year, the Secretary shall
10 determine whether insufficient or excess reve-
11 nues are being collected under this subsection,
12 to make a fee proposal to Congress under para-
13 graph (7). In making this determination, the
14 Secretary shall—

15 “(i) rely on the ‘Analysis of the Total
16 System Life Cycle Cost of the Civilian Ra-
17 dioactive Waste Management Program’,
18 dated September 1995, or on a total sys-
19 tem life-cycle cost analysis published by the
20 Secretary (after notice and opportunity for
21 public comment) after the date of enact-
22 ment of this Act, as part of making any es-
23 timate of the costs to be incurred by the
24 Government for the integrated manage-
25 ment system under subsection (c)(2);

1 “(ii) rely on projections from the En-
2 ergy Information Administration, consist-
3 ent with the projections contained in the
4 reference case in the most recent ‘Annual
5 Energy Outlook’ published by such Admin-
6 istration, made by the Administration in
7 making any estimate of future power gen-
8 eration; and

9 “(iii) take into account projected bal-
10 ances in, and expenditures from, the Nu-
11 clear Waste Fund.

12 “(B) If the Secretary determines under
13 subparagraph (A) that either insufficient or ex-
14 cess revenues are being collected, the Secretary
15 shall, at the time of the determination, transmit
16 a proposal to Congress to adjust the cap
17 amount specified in subsection (a)(2)(B) to en-
18 sure full cost recovery. The cap amount speci-
19 fied in subsection (a)(2)(B)(i) shall be adjusted,
20 by operation of law, immediately upon enact-
21 ment of a joint resolution of approval under
22 paragraph (7).

23 “(C) The Secretary shall, by rule, establish
24 procedures necessary to implement this para-
25 graph.

1 “(7) 1-TIME FEE.—

2 “(A) For spent nuclear fuel or solidified
3 high-level radioactive waste derived from spent
4 nuclear fuel, which fuel was used to generate
5 electricity in a civilian nuclear power reactor
6 prior to January 7, 1983, the fee shall be in an
7 amount equivalent to an average charge of 1.0
8 mill per kilowatt-hour for electricity generated
9 by such spent nuclear fuel or solidified high-
10 level waste derived therefrom. Payment of such
11 1-time fee prior to the date of enactment of the
12 Nuclear Waste Policy Act of 1999 shall satisfy
13 the obligation imposed under this paragraph.

14 “(B) Any 1-time fee paid and collected
15 subsequent to the date of enactment of this Act
16 pursuant to the contracts referred to in sub-
17 section (a), including any interest due pursuant
18 to the contracts—

19 “(i) for civilian nuclear power reactors
20 owned by investor-owned and cooperatively
21 owned utilities, in an amount not less than
22 $\frac{1}{2}$ the 1-time fee shall be paid to the Nu-
23 clear Waste Fund and shall be paid no
24 later than September 30, 2004, and the re-

1 maining balance shall be paid no later than
2 September 30, 2009;

3 “(ii) for civilian nuclear power reac-
4 tors owned by publicly owned utilities, the
5 1-time fee shall be paid to the Nuclear
6 Waste Fund and shall be paid in 4 incre-
7 ments of one 4th each, in the fiscal year
8 ending on September 30, 2003, 2004,
9 2008, and 2009; and

10 “(iii) any unpaid amounts of the 1-
11 time fee shall continue to accrue interest
12 until the time of payment, pursuant to the
13 terms and conditions established in con-
14 tracts.

15 “(C) The Commission shall suspend the li-
16 cense of any licensee who fails or refuses to pay
17 the full amount of the fees assessed under this
18 subsection, on or before the date on which fees
19 are due, and the license shall remain suspended
20 until the full amount of the fees assessed under
21 this subsection is paid.

22 “(D) The person paying the fee under this
23 paragraph to the Secretary shall have no fur-
24 ther financial obligation to the Federal Govern-
25 ment for the long-term storage and permanent

1 disposal of spent fuel or high-level radioactive
2 waste derived from spent nuclear fuel used to
3 generate electricity in a civilian power reactor
4 prior to January 7, 1983.

5 “(8) EXPEDITED PROCEDURES FOR APPROVAL
6 OF CHANGES TO THE CAP ON NUCLEAR WASTE
7 FEES.—

8 “(A) At any time after the Secretary
9 transmits a proposal for a fee cap adjustment
10 under paragraph (5)(B) of this subsection, a
11 joint resolution may be introduced in either
12 House of Congress, the matter after the resolv-
13 ing clause of which is as follows: ‘That Con-
14 gress approves the adjustment to the cap on the
15 nuclear waste fees under section 401(a)(3) of
16 the Nuclear Waste Policy Act of 1999, submit-
17 ted by the Secretary of Energy on _____’.

18 “(B) A joint resolution described in sub-
19 paragraph (A) shall be referred to the commit-
20 tees in each House of Congress with jurisdic-
21 tion.

22 “(C) In the Senate, if the committee to
23 which is referred a joint resolution described in
24 subparagraph (A) has not reported such joint
25 resolution (or an identical joint resolution) at

1 the end of 20 calendar days after the date on
2 which it is introduced, such committee may be
3 discharged from further consideration of such
4 joint resolution upon a petition supported in
5 writing by 30 Members of the Senate, and such
6 joint resolution shall be placed on the calendar.

7 “(D) In the Senate, the procedure under
8 section 802(d) of title 5, United States Code,
9 shall apply to a joint resolution described in
10 subparagraph (A).

11 “(9) POINTS OF ORDER.—No points of order,
12 which require 60 votes in order to adopt a motion
13 to waive such point of order, shall be considered to
14 be waived during the consideration of a joint resolu-
15 tion under this paragraph.

16 “(b) ADVANCE CONTRACTING REQUIREMENT.—

17 “(1) IN GENERAL.—

18 “(A) LICENSE ISSUANCE AND RENEWAL.—

19 The Commission shall not issue or renew a li-
20 cense to any person to use a utilization or pro-
21 duction facility under the authority of section
22 103 or 104 of the Atomic Energy Act of 1954
23 (42 U.S.C. 2133, 2134) unless—

24 “(i) such person has entered into a
25 contract with the Secretary; or

1 “(ii) the Secretary affirms in writing
2 that such person is actively and in good
3 faith negotiating with the Secretary for a
4 contract under subsection (a).

5 “(B) PRECONDITION.—The Commission,
6 as it deems necessary or appropriate, may re-
7 quire as a precondition to the issuance or re-
8 newal of a license under section 103 or 104 of
9 Atomic Energy Act of 1954 (42 U.S.C. 2133,
10 2134) that the applicant for such license shall
11 have entered into an agreement with the Sec-
12 retary for the disposal of spent nuclear fuel and
13 high-level radioactive waste that may result
14 from the use of such license.

15 “(2) DISPOSAL IN REPOSITORY.—No spent nu-
16 clear fuel or high-level radioactive waste generated
17 or owned by any person (other than a department of
18 the United States referred to in section 101 or 102
19 of title 5, United States Code) may be disposed of
20 by the Secretary in the repository unless the genera-
21 tor or owner of such spent fuel or waste has entered
22 into a contract with the Secretary by not later than
23 June 30, 1983, which under subsection (a) is to be
24 treated as a contract entered into under this Act or
25 the date on which such generator or owner com-

1 ments generation of, or takes title to, such spent
2 fuel or waste.

3 “(3) ASSIGNMENT.—The rights and duties of
4 contract holders are assignable.

5 “(4) DISPOSAL CONDITION.—No spent nuclear
6 fuel or high level radioactive waste generated or
7 owned by any department of the United States re-
8 ferred to in section 101 or 102 of title 5, United
9 States Code, may be stored or disposed of by the
10 Secretary of such department at the interim storage
11 facility or repository in the integrated management
12 system developed under this Act unless, in each fis-
13 cal year, such department funds its appropriate por-
14 tion of the costs of such storage and disposal as
15 specified in section 403.

16 “(c) NUCLEAR WASTE FUND.—

17 “(1) IN GENERAL.—The Nuclear Waste Fund
18 established in the Treasury of the United States
19 under section 302(c) of the Nuclear Waste Policy
20 Act of 1982 shall continue in effect under this Act
21 and shall consist of—

22 “(A) the existing balance in the Nuclear
23 Waste Fund on the date of enactment of this
24 Act, and

1 “(B) all receipts, proceeds, and recoveries
2 realized under subsections (a)(3), (a)(4), and
3 (c)(3) subsequent to the date of enactment of
4 this Act, which shall be deposited in the Nu-
5 clear Waste Fund immediately upon their real-
6 ization.

7 “(2) PURPOSES.—The Nuclear Waste Fund
8 shall be used only for purposes of the integrated
9 management system.

10 “(3) ADMINISTRATION OF THE NUCLEAR
11 WASTE FUND.—

12 “(A) IN GENERAL.—The Secretary of the
13 Treasury shall hold the Nuclear Waste Fund
14 and, after consultation with the Secretary, an-
15 nually report to the Congress on the financial
16 condition and operations of the Nuclear Waste
17 Fund during the preceding fiscal year.

18 “(B) AMOUNTS IN EXCESS OF CURRENT
19 NEEDS.—If the Secretary determines that the
20 Nuclear Waste Fund contains at any time
21 amounts in excess of current needs, the Sec-
22 retary may request the Secretary of the Treas-
23 ury to invest such amounts, or any portion of
24 such amounts as the Secretary determines to be

1 appropriate, in obligations of the United
2 States—

3 “(i) having maturities determined by
4 the Secretary of the Treasury to be appro-
5 priate to the needs of the Nuclear Waste
6 Fund;

7 “(ii) bearing interest at rates deter-
8 mined to be appropriate by the Secretary
9 of the Treasury, taking into consideration
10 the current average market yield on out-
11 standing marketable obligations of the
12 United States with remaining periods to
13 maturity comparable to the maturities of
14 such investments, except that the interest
15 rates on such investments shall not exceed
16 the average interest rate applicable to ex-
17 isting borrowings; and

18 “(iii) interest earned on these obliga-
19 tions shall be credited to the Nuclear
20 Waste Fund.

21 “(C) EXEMPTION.—Receipts, proceeds,
22 and recoveries realized by the Secretary under
23 this section, and expenditures of amounts from
24 the Nuclear Waste Fund, shall be exempt from
25 annual apportionment, under the provisions of

1 subchapter II of chapter 15 of title 31, United
2 States Code.

3 “(d) USE OF APPROPRIATED FUNDS.—During each
4 fiscal year, the Secretary may make expenditures of funds
5 collected after the date of enactment of this Act under
6 this section and section 403, up to the level of appropria-
7 tions for that fiscal year pursuant to subsection (f) only
8 for purposes of the integrated management system.

9 “(e) PROHIBITION OF USE OF APPROPRIATIONS AND
10 NUCLEAR WASTE FUND.—The Secretary shall not make
11 expenditures of funds collected pursuant to this section or
12 section 403 to design or construct packages for the trans-
13 portation, storage, or disposal of spent nuclear fuel from
14 civilian nuclear power reactors.

15 “(f) BUDGET.—The Secretary shall submit the budg-
16 et for implementation of the Secretary’s responsibilities
17 under this Act to the Office of Management and Budget
18 annually along with the budget of the Department of En-
19 ergy submitted at such time in accordance with chapter
20 11 of title 31, United States Code. The budget shall con-
21 sist of the estimates made by the Secretary of expendi-
22 tures under this Act and other relevant financial matters
23 for the period up to the date of initial acceptance of spent
24 nuclear fuel or high-level radioactive waste at the perma-

1 nent repository, and shall be included in the budget of the
2 United States Government.

3 “(g) APPROPRIATIONS.—The Secretary may make
4 expenditures from the Nuclear Waste Fund and the Nu-
5 clear Waste Offsetting Collection, subject to appropria-
6 tions, which shall remain available until expended.

7 **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**
8 **AGEMENT.**

9 “(a) CONTINUATION OF OFFICE OF CIVILIAN RADIO-
10 ACTIVE WASTE MANAGEMENT.—The Office of Civilian
11 Radioactive Waste Management established under section
12 304(a) of the Nuclear Waste Policy Act of 1982 as con-
13 stituted prior to the date of enactment of this Act, shall
14 continue in effect subsequent to the date of enactment of
15 this Act.

16 “(b) FUNCTIONS OF DIRECTOR.—The Director of the
17 Office shall be responsible for carrying out the functions
18 of the Secretary under this Act, subject to the general su-
19 pervision of the Secretary. The Director of the Office shall
20 be directly responsible to the Secretary.

21 “(c) AUDITS.—

22 “(1) STANDARD.—The Office of Civilian Radio-
23 active Waste Management, its contractors, and sub-
24 contractors at all tiers, shall conduct, or have con-
25 ducted, audits and examinations of their operations

1 in accordance with the usual and customary prac-
2 tices of private corporations engaged in large nuclear
3 construction projects consistent with its role in the
4 program.

5 “(2) TIME.—The management practices and
6 performances of the Office of Civilian Radioactive
7 Waste Management shall be audited every 5 years
8 by an independent management consulting firm with
9 significant experience in similar audits of private
10 corporations engaged in large nuclear construction
11 projects. The first such audit shall be conducted 5
12 years after the date of enactment of this Act.

13 “(3) COMPTROLLER GENERAL.—The Comptrol-
14 ler General of the United States shall annually make
15 an audit of the Office, in accordance with such regu-
16 lations as the Comptroller General may prescribe.
17 The Comptroller General shall have access to such
18 books, records, accounts, and other materials of the
19 Office as the Comptroller General determines to be
20 necessary for the preparation of such audit. The
21 Comptroller General shall submit to the Congress a
22 report on the results of each audit conducted under
23 this section.

24 “(4) TIME.—No audit contemplated by this
25 subsection shall take longer than 30 days to con-

1 duct. An audit report shall be issued in final form
2 no longer than 60 days after the audit is com-
3 menced.

4 “(5) PUBLIC DOCUMENTS.—All audit reports
5 shall be public documents and available to any indi-
6 vidual upon request.

7 **“SEC. 403. DEFENSE CONTRIBUTION.**

8 “(a) ALLOCATION.—No later than one year from the
9 date of enactment of this Act, acting pursuant to section
10 553 of title 5, United States Code, the Secretary shall
11 issue a final rule establishing the appropriate portion of
12 the costs of managing spent nuclear fuel and high-level
13 radioactive waste under this Act allocable to the interim
14 storage or permanent disposal of spent nuclear fuel, high-
15 level radioactive waste from atomic energy defense activi-
16 ties, and spent nuclear fuel from foreign research reactors.
17 The share of costs allocable to the management of spent
18 nuclear fuel, high-level radioactive waste from atomic en-
19 ergy defense activities, and spent nuclear fuel from foreign
20 research reactors shall include—

21 “(1) an appropriate portion of the costs associ-
22 ated with research and development activities with
23 respect to development of the interim storage facility
24 and repository; and

1 “(2) interest on the principal amounts due cal-
2 culated by reference to the appropriate Treasury bill
3 rate as if the payments were made at a point in time
4 consistent with the payment dates for spent nuclear
5 fuel and high-level radioactive waste under the con-
6 tracts.

7 “(b) APPROPRIATION REQUEST.—In addition to any
8 request for an appropriation from the Nuclear Waste
9 Fund, the Secretary shall request annual appropriations
10 from general revenues in amounts sufficient to pay the
11 costs of the management of materials described in sub-
12 section (a).

13 “(c) REPORT.—In conjunction with the annual report
14 submitted to Congress under section 702, the Secretary
15 shall advise the Congress annually of the amount of spent
16 nuclear fuel and high-level radioactive waste from atomic
17 energy defense activities, and spent nuclear fuel from for-
18 eign research reactors requiring management in the inte-
19 grated management system.

20 “(d) AUTHORIZATION.—There is authorized to be ap-
21 propriated to the Secretary, from general revenues, for
22 carrying out the purposes of this Act, such sums as may
23 be necessary to pay the costs of the management of spent
24 nuclear fuel and high-level radioactive waste from atomic

1 energy defense activities as established under subsection
2 (a).

3 **“TITLE V—GENERAL AND**
4 **MISCELLANEOUS PROVISIONS**

5 **“SEC. 501. COMPLIANCE WITH OTHER LAWS.**

6 “If the requirements of any law are inconsistent with
7 or duplicative of the requirements of the Atomic Energy
8 Act of 1954 (42 U.S.C. 2011 et seq.) and this Act, the
9 Secretary shall comply only with the requirements of the
10 Atomic Energy Act of 1954 and this Act in implementing
11 the integrated management system. Any requirement of
12 a State or political subdivision of a State is preempted
13 if—

14 “(1) complying with such requirement and a re-
15 quirement of this Act is impossible; or

16 “(2) such requirement, as applied or enforced,
17 is an obstacle to accomplishing or carrying out this
18 Act or a regulation under this Act.

19 **“SEC. 502. WATER RIGHTS.**

20 “(a) NO FEDERAL RESERVATION.—Nothing in this
21 Act or any other Act of Congress shall constitute or be
22 construed to constitute either an express or implied Fed-
23 eral reservation of water or water rights for any purpose
24 arising under this Act.

1 “(b) ACQUISITION AND EXERCISE OF WATER
2 RIGHTS UNDER NEVADA LAW.—The United States may
3 acquire and exercise such water rights as it deems nec-
4 essary to carry out its responsibilities under this Act pur-
5 suant to the substantive and procedural requirements of
6 the State of Nevada. Nothing in this Act shall be con-
7 strued to authorize the use of eminent domain by the
8 United States to acquire water rights.

9 “(c) EXERCISE OF WATER RIGHTS GENERALLY
10 UNDER NEVADA LAWS.—Nothing in this Act shall be con-
11 strued to limit the exercise of water rights as provided
12 under Nevada State laws.

13 **“SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.**

14 “(a) JURISDICTION OF UNITED STATES COURTS OF
15 APPEALS.—

16 “(1) ORIGINAL AND EXCLUSIVE JURISDIC-
17 TION.—Except for review in the Supreme Court of
18 the United States, and except as otherwise provided
19 in this Act, the United States courts of appeals shall
20 have original and exclusive jurisdiction over any civil
21 action—

22 “(A) for review of any final decision or ac-
23 tion of the Secretary, the President, or the
24 Commission under this Act;

1 “(B) alleging the failure of the Secretary,
2 the President, or the Commission to make any
3 decision, or take any action, required under this
4 Act;

5 “(C) challenging the constitutionality of
6 any decision made, or action taken, under any
7 provision of this Act; or

8 “(D) for review of any environmental im-
9 pact statement prepared or environmental as-
10 sessment made pursuant to the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C. 4321
12 et seq.) with respect to any action under this
13 Act or alleging a failure to prepare such state-
14 ment with respect to any such action.

15 “(2) VENUE.—The venue of any proceeding
16 under this section shall be in the judicial circuit in
17 which the petitioner involved resides or has its prin-
18 cipal office, or in the United States Court of Appeals
19 for the District of Columbia.

20 “(b) DEADLINE FOR COMMENCING ACTION.—A civil
21 action for judicial review described under subsection (a)(1)
22 may be brought no later than 180 days after the date of
23 the decision or action or failure to act involved, as the
24 case may be, except that if a party shows that the party
25 did not know of the decision or action complained of or

1 of the failure to act, and that a reasonable person acting
2 under the circumstances would not have known of such
3 decision, action, or failure to act, such party may bring
4 a civil action no later than 180 days after the date such
5 party acquired actual or constructive knowledge of such
6 decision, action, or failure to act.

7 “(c) APPLICATION OF OTHER LAW.—The provisions
8 of this section relating to any matter shall apply in lieu
9 of the provisions of any other Act relating to the same
10 matter.

11 **“SEC. 504. LICENSING OF FACILITY EXPANSIONS AND**
12 **TRANSSHIPMENTS.**

13 “(a) ORAL ARGUMENT.—In any Commission hearing
14 under section 189 of the Atomic Energy Act of 1954 (42
15 U.S.C. 2239) on an application for a license, or for an
16 amendment to an existing license, filed after January 7,
17 1983, to expand the spent nuclear fuel storage capacity
18 at the site of a civilian nuclear power reactor, through the
19 use of high-density fuel storage racks, fuel rod compac-
20 tion, the transshipment of spent nuclear fuel to another
21 civilian nuclear power reactor within the same utility sys-
22 tem, the construction of additional spent nuclear fuel pool
23 capacity or dry storage capacity, or by other means, the
24 Commission shall, at the request of any party, provide an
25 opportunity for oral argument with respect to any matter

1 which the Commission determines to be in controversy
2 among the parties. The oral argument shall be preceded
3 by such discovery procedures as the rules of the Commis-
4 sion shall provide. The Commission shall require each
5 party, including the Commission staff, to submit in writ-
6 ten form, at the time of the oral argument, a summary
7 of the facts, data, and arguments upon which such party
8 proposes to rely that are known at such time to such
9 party. Only facts and data in the form of sworn testimony
10 or written submission may be relied upon by the parties
11 during oral argument. Of the materials that may be sub-
12 mitted by the parties during oral argument, the Commis-
13 sion shall only consider those facts and data that are sub-
14 mitted in the form of sworn testimony or written submis-
15 sion.

16 “(b) ADJUDICATORY HEARING.—

17 “(1) DESIGNATION.—At the conclusion of any
18 oral argument under subsection (a), the Commission
19 shall designate any disputed question of fact, to-
20 gether with any remaining questions of law, for reso-
21 lution in an adjudicatory hearing only if it deter-
22 mines that—

23 “(A) there is a genuine and substantial
24 dispute of fact which can only be resolved with

1 sufficient accuracy by the introduction of evi-
2 dence in an adjudicatory hearing; and

3 “(B) the decision of the Commission is
4 likely to depend in whole or in part on the reso-
5 lution of such dispute.

6 “(2) DETERMINATION.—In making a deter-
7 mination under this subsection, the Commission—

8 “(A) shall designate in writing the specific
9 facts that are in genuine and substantial dis-
10 pute, the reason why the decision of the agency
11 is likely to depend on the resolution of such
12 facts, and the reason why an adjudicatory hear-
13 ing is likely to resolve the dispute; and

14 “(B) shall not consider—

15 “(i) any issue relating to the design,
16 construction, or operation of any civilian
17 nuclear power reactor already licensed to
18 operate at such site, or any civilian nuclear
19 power reactor to which a construction per-
20 mit has been granted at such site, unless
21 the Commission determines that any such
22 issue substantially affects the design, con-
23 struction, or operation of the facility or ac-
24 tivity for which such license application,

1 authorization, or amendment is being con-
2 sidered; or

3 “(ii) any siting or design issue fully
4 considered and decided by the Commission
5 in connection with the issuance of a con-
6 struction permit or operating license for a
7 civilian nuclear power reactor at such site,
8 unless—

9 “(I) such issue results from any
10 revision of siting or design criteria by
11 the Commission following such deci-
12 sion; and

13 “(II) the Commission determines
14 that such issue substantially affects
15 the design, construction, or operation
16 of the facility or activity for which
17 such license application, authorization,
18 or amendment is being considered.

19 “(3) APPLICATION.—The provisions of para-
20 graph (2)(B) shall apply only with respect to li-
21 censes, authorizations, or amendments to licenses or
22 authorizations, applied for under the Atomic Energy
23 Act of 1954 (42 U.S.C. 2011 et seq.) before Decem-
24 ber 31, 2005.

1 “(4) CONSTRUCTION.—The provisions of this
2 section shall not apply to the first application for a
3 license or license amendment received by the Com-
4 mission to expand onsite spent fuel storage capacity
5 by the use of a new technology not previously ap-
6 proved for use at any nuclear power plant by the
7 Commission.

8 “(c) JUDICIAL REVIEW.—No court shall hold unlaw-
9 ful or set aside a decision of the Commission in any pro-
10 ceeding described in subsection (a) because of a failure
11 by the Commission to use a particular procedure pursuant
12 to this section unless—

13 “(1) an objection to the procedure used was
14 presented to the Commission in a timely fashion or
15 there are extraordinary circumstances that excuse
16 the failure to present a timely objection; and

17 “(2) the court finds that such failure has pre-
18 cluded a fair consideration and informed resolution
19 of a significant issue of the proceeding taken as a
20 whole.

21 **“SEC. 505. SITING A SECOND REPOSITORY.**

22 “(a) CONGRESSIONAL ACTION REQUIRED.—The Sec-
23 retary may not conduct site-specific activities with respect
24 to a second repository unless Congress has specifically au-
25 thorized and appropriated funds for such activities.

1 “(b) REPORT.—The Secretary shall report to the
2 President and to Congress on or after January 1, 2007,
3 but not later than January 1, 2010, on the need for a
4 second repository.

5 **“SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**
6 **RADIOACTIVE WASTE SITE CLOSURE.**

7 “(a) FINANCIAL ARRANGEMENTS.—

8 “(1) STANDARDS AND INSTRUCTIONS.—The
9 Commission shall establish by rule, regulation, or
10 order, after public notice, and in accordance with
11 section 181 of the Atomic Energy Act of 1954 (42
12 U.S.C. 2231), such standards and instructions as
13 the Commission may deem necessary or desirable to
14 ensure in the case of each license for the disposal of
15 low-level radioactive waste that an adequate bond,
16 surety, or other financial arrangement (as deter-
17 mined by the Commission) will be provided by a li-
18 censee to permit completion of all requirements es-
19 tablished by the Commission for the decontamina-
20 tion, decommissioning, site closure, and reclamation
21 of sites, structures, and equipment used in conjunc-
22 tion with such low-level radioactive waste. Such fi-
23 nancial arrangements shall be provided and ap-
24 proved by the Commission, or, in the case of sites
25 within the boundaries of any agreement State under

1 section 274 of the Atomic Energy Act of 1954 (42
2 U.S.C. 2021), by the appropriate State or State en-
3 tity, prior to issuance of licenses for low-level radio-
4 active waste disposal or, in the case of licenses in ef-
5 fect on January 7, 1983, prior to termination of
6 such licenses.

7 “(2) BONDING, SURETY, OR OTHER FINANCIAL
8 ARRANGEMENTS.—If the Commission determines
9 that any long-term maintenance or monitoring, or
10 both, will be necessary at a site described in para-
11 graph (1), the Commission shall ensure before termi-
12 nation of the license involved that the licensee has
13 made available such bonding, surety, or other finan-
14 cial arrangements as may be necessary to ensure
15 that any necessary long-term maintenance or mon-
16 itoring needed for such site will be carried out by
17 the person having title and custody for such site fol-
18 lowing license termination.

19 “(b) TITLE AND CUSTODY.—

20 “(1) AUTHORITY OF SECRETARY.—The Sec-
21 retary shall have authority to assume title and cus-
22 tody of low-level radioactive waste and the land on
23 which such waste is disposed of, upon request of the
24 owner of such waste and land and following termi-

1 nation of the license issued by the Commission for
2 such disposal, if the Commission determines that—

3 “(A) the requirements of the Commission
4 for site closure, decommissioning, and decon-
5 tamination have been met by the licensee in-
6 volved and that such licensee is in compliance
7 with the provisions of subsection (a);

8 “(B) such title and custody will be trans-
9 ferred to the Secretary without cost to the Fed-
10 eral Government; and

11 “(C) Federal ownership and management
12 of such site is necessary or desirable in order to
13 protect the public health and safety, and the
14 environment.

15 “(2) PROTECTION.—If the Secretary assumes
16 title and custody of any such waste and land under
17 this subsection, the Secretary shall maintain such
18 waste and land in a manner that will protect the
19 public health and safety, and the environment.

20 “(c) SPECIAL SITES.—If the low-level radioactive
21 waste involved is the result of a licensed activity to recover
22 zirconium, hafnium, and rare earths from source material,
23 the Secretary, upon request of the owner of the site in-
24 volved, shall assume title and custody of such waste and
25 the land on which it is disposed when such site has been

1 decontaminated and stabilized in accordance with the re-
2 quirements established by the Commission and when such
3 owner has made adequate financial arrangements ap-
4 proved by the Commission for the long-term maintenance
5 and monitoring of such site.

6 **“SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING**
7 **AUTHORIZATION.**

8 “The Commission is authorized and directed to pro-
9 mulgate regulations, or other appropriate regulatory guid-
10 ance, for the training and qualifications of civilian nuclear
11 powerplant operators, supervisors, technicians, and other
12 appropriate operating personnel. Such regulations or guid-
13 ance shall establish simulator training requirements for
14 applicants for civilian nuclear powerplant operator licenses
15 and for operator requalification programs; requirements
16 governing Commission administration of requalification
17 examinations; requirements for operating tests at civilian
18 nuclear powerplant simulators, and instructional require-
19 ments for civilian nuclear powerplant licensee personnel
20 training programs.

21 **“SEC. 508. ACCEPTANCE SCHEDULE.**

22 “The acceptance schedule shall be implemented in ac-
23 cordance with the following:

1 “(1) PRIORITY RANKING.—Acceptance priority
2 ranking shall be determined by the Department’s
3 ‘Acceptance Priority Ranking’ report.

4 “(2) ACCEPTANCE RATE.—Except as provided
5 in paragraph (5), the Secretary’s acceptance rate for
6 spent nuclear fuel shall be no less than the follow-
7 ing: 600 MTU in 2003 and 1,200 MTU in 2004,
8 2,000 MTU in 2005 and 2,000 MTU in 2006, 2,700
9 MTU in 2007, and 3,000 MTU thereafter.

10 “(3) OTHER ACCEPTANCES.—In each year, once
11 the Secretary has achieved the annual acceptance
12 rate for spent nuclear fuel from civilian nuclear
13 power reactors established pursuant to the contracts
14 executed under the Nuclear Waste Policy Act of
15 1982 (as set forth in the Secretary’s annual capacity
16 report dated March 1995 (DOE/RW-0457)), the
17 Secretary—

18 “(A) shall accept from spent nuclear fuel
19 from foreign research reactors and spent nu-
20 clear fuel from naval reactors and high-level ra-
21 dioactive waste from atomic energy defense ac-
22 tivities, an amount of spent nuclear fuel and
23 high-level radioactive waste which is—

24 “(i) at least 25 percent of the dif-
25 ference between such annual acceptance

1 rate and the annual rate specified in para-
2 graph (2), or

3 “(ii) 5 percent of the total amount of
4 spent nuclear fuel and high-level radio-
5 active waste actually accepted,
6 whichever is higher. If such amount is less than
7 the rate prescribed in the preceding sentence,
8 the Secretary shall accept spent nuclear fuel or
9 high-level radioactive waste of domestic origin
10 from civilian nuclear power reactors which have
11 permanently ceased operation; and

12 “(B) may, additionally, accept any other
13 spent nuclear fuel or high-level radioactive
14 waste.

15 “(4) EXCEPTION.—If the annual rate under the
16 acceptance schedule is not achieved, the acceptance
17 rate of the Secretary of the materials described in
18 paragraph (3)(A) shall be the greater of the accept-
19 ance rate prescribed by paragraph (3) and calculated
20 on the basis of the amount of spent nuclear fuel and
21 high-level radioactive waste actually received or 5
22 percent of the total amount of spent nuclear fuel
23 and high-level radioactive waste actually accepted.

24 “(5) ADJUSTMENT.—If the Secretary is unable
25 to begin acceptance by June 30, 2003 at the rate

1 specified in paragraph (2) or if the cumulative
2 amount accepted in any year thereafter is less than
3 that which would have been accepted under the rate
4 specified in paragraph (2), the acceptance schedule
5 shall, to the extent practicable, be adjusted upward
6 such that within 5 years of the start of acceptance
7 by the Secretary—

8 “(A) the total quantity accepted by the
9 Secretary is consistent with the total quantity
10 that the Secretary would have accepted if the
11 Secretary had begun acceptance in 2003; and

12 “(B) thereafter the acceptance rate is
13 equivalent to the rate that would be in place
14 pursuant to paragraph (2) if the Secretary had
15 commenced acceptance in 2003.

16 “(6) EFFECT ON SCHEDULE.—The acceptance
17 schedule shall not be affected or modified in any way
18 as a result of the Secretary’s acceptance of any ma-
19 terial other than contract holders’ spent nuclear fuel
20 and high-level radioactive waste.

21 **“SEC. 509. SUBSEABED OR OCEAN WATER DISPOSAL.**

22 “Notwithstanding any other provision of law—

23 “(1) the subseabed or ocean water disposal of
24 spent nuclear fuel or high-level radioactive waste is
25 prohibited; and

1 “(2) no funds shall be obligated for any activity
2 relating to the subseabed or ocean water disposal of
3 spent nuclear fuel or high-level radioactive waste.

4 **“SEC. 510. SEPARABILITY.**

5 “If any provision of this Act, or the application of
6 such provision to any person or circumstance, is held to
7 be invalid, the remainder of this Act, or the application
8 of such provision to persons or circumstances other than
9 those as to which it is held invalid, shall not be affected
10 thereby.

11 **“SEC. 511. PURCHASE OF AMERICAN-MADE EQUIPMENT**
12 **AND PRODUCTS.**

13 “(a) IN GENERAL.—It is the sense of the Congress
14 that, to the greatest extent practicable, all equipment and
15 products purchased with funds made available under this
16 Act should be American-made.

17 “(b) NOTICE REQUIREMENT.—In providing financial
18 assistance to, or entering into any contract with, any en-
19 tity using funds made available under this Act, the head
20 of each Federal agency, to the greatest extent practicable,
21 shall provide to such entity a notice describing the state-
22 ment made in subsection (a) by the Congress.

23 “(c) PROHIBITION OF CONTRACTS WITH PERSONS
24 FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—
25 If it has been finally determined by a court or Federal

1 agency that any person intentionally affixed a label bear-
 2 ing a “Made in America” inscription, or any inscription
 3 with the same meaning, to any product sold in or shipped
 4 to the United States that is not made in the United
 5 States, the person shall be ineligible to receive any con-
 6 tract or subcontract made with funds made available
 7 under this Act, pursuant to the debarment, suspension,
 8 and ineligibility procedures described in sections 9.400
 9 through 9.409 of title 48, Code of Federal Regulations.

10 **“TITLE VI—NUCLEAR WASTE** 11 **TECHNICAL REVIEW BOARD**

12 **“SEC. 601. DEFINITIONS.**

13 “For purposes of this title—

14 “(1) CHAIRMAN.—The term ‘Chairman’ means
 15 the Chairman of the Nuclear Waste Technical Re-
 16 view Board.

17 “(2) BOARD.—The term ‘Board’ means the Nu-
 18 clear Waste Technical Review Board continued
 19 under section 602.

20 **“SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

21 “(a) CONTINUATION OF NUCLEAR WASTE TECH-
 22 NICAL REVIEW BOARD.—The Nuclear Waste Technical
 23 Review Board, established under section 502(a) of the Nu-
 24 clear Waste Policy Act of 1982 as constituted prior to the

1 date of enactment of this Act, shall continue in effect sub-
2 sequent to the date of enactment of this Act.

3 “(b) MEMBERS.—

4 “(1) NUMBER.—The Board shall consist of 11
5 members who shall be appointed by the President
6 not later than 90 days after December 22, 1987,
7 from among persons nominated by the National
8 Academy of Sciences in accordance with paragraph
9 (3).

10 “(2) CHAIR.—The President shall designate a
11 member of the Board to serve as Chairman.

12 “(3) NATIONAL ACADEMY OF SCIENCES.—

13 “(A) NOMINATIONS.—The National Acad-
14 emy of Sciences shall, not later than 90 days
15 after December 22, 1987, nominate not less
16 than 22 persons for appointment to the Board
17 from among persons who meet the qualifica-
18 tions described in subparagraph (C).

19 “(B) VACANCIES.—The National Academy
20 of Sciences shall nominate not less than 2 per-
21 sons to fill any vacancy on the Board from
22 among persons who meet the qualifications de-
23 scribed in subparagraph (C).

24 “(C) NOMINEES.—

1 “(i) Each person nominated for ap-
2 pointment to the Board shall be—

3 “(I) eminent in a field of science
4 or engineering, including environ-
5 mental sciences; and

6 “(II) selected solely on the basis
7 of established records of distinguished
8 service.

9 “(ii) The membership of the Board
10 shall be representatives of the broad range
11 of scientific and engineering disciplines re-
12 lated to activities under this title.

13 “(iii) No person shall be nominated
14 for appointment to the Board who is an
15 employee of—

16 “(I) the Department of Energy;

17 “(II) a national laboratory under
18 contract with the Department of En-
19 ergy; or

20 “(III) an entity performing spent
21 nuclear fuel or high-level radioactive
22 waste activities under contract with
23 the Department of Energy.

1 “(4) VACANCIES.—Any vacancy on the Board
2 shall be filled by the nomination and appointment
3 process described in paragraphs (1) and (3).

4 “(5) TERMS.—Members of the Board shall be
5 appointed for terms of 4 years, each such term to
6 commence 120 days after December 22, 1987, ex-
7 cept that of the 11 members first appointed to the
8 Board, 5 shall serve for 2 years and 6 shall serve
9 for 4 years, to be designated by the President at the
10 time of appointment, except that a member of the
11 Board whose term has expired may continue to serve
12 as a member of the Board until such member’s suc-
13 cessor has taken office.

14 **“SEC. 603. FUNCTIONS.**

15 “The Board shall evaluate the technical and scientific
16 validity of activities undertaken by the Secretary after De-
17 cember 22, 1987, including—

18 “(1) site characterization activities; and

19 “(2) activities relating to the packaging or
20 transportation of spent nuclear fuel or high-level ra-
21 dioactive waste.

22 **“SEC. 604. INVESTIGATORY POWERS.**

23 “(a) HEARINGS.—Upon request of the Chairman or
24 a majority of the members of the Board, the Board may
25 hold such hearings, sit and act at such times and places,

1 take such testimony, and receive such evidence, as the
2 Board considers appropriate. Any member of the Board
3 may administer oaths or affirmations to witnesses appear-
4 ing before the Board.

5 “(b) PRODUCTION OF DOCUMENTS.—

6 “(1) RESPONSE TO INQUIRIES.—Upon the re-
7 quest of the Chairman or a majority of the members
8 of the Board, and subject to existing law, the Sec-
9 retary (or any contractor of the Secretary) shall pro-
10 vide the Board with such records, files, papers, data,
11 or information as may be necessary to respond to
12 any inquiry of the Board under this title.

13 “(2) EXTENT.—Subject to existing law, infor-
14 mation obtainable under paragraph (1) shall not be
15 limited to final work products of the Secretary, but
16 shall include drafts of such products and documenta-
17 tion of work in progress.

18 **“SEC. 605. COMPENSATION OF MEMBERS.**

19 “(a) IN GENERAL.—Each member of the Board
20 shall, subject to appropriations, be paid at the rate of pay
21 payable for level III of the Executive Schedule for each
22 day (including travel time) such member is engaged in the
23 work of the Board.

24 “(b) TRAVEL EXPENSES.—Each member of the
25 Board may receive travel expenses, including per diem in

1 lieu of subsistence, in the same manner as is permitted
2 under sections 5702 and 5703 of title 5, United States
3 Code.

4 **“SEC. 606. STAFF.**

5 “(a) CLERICAL STAFF.—

6 “(1) AUTHORITY OF CHAIRMAN.—Subject to
7 paragraph (2), the Chairman may, subject to appro-
8 priations, appoint and fix the compensation of such
9 clerical staff as may be necessary to discharge the
10 responsibilities of the Board.

11 “(2) PROVISIONS OF TITLE 5.—Clerical staff
12 shall be appointed subject to the provisions of title
13 5, United States Code, governing appointments in
14 the competitive service, and shall be paid in accord-
15 ance with the provisions of chapter 51 and sub-
16 chapter III of chapter 3 of such title relating to clas-
17 sification and General Schedule pay rates.

18 “(b) PROFESSIONAL STAFF.—

19 “(1) AUTHORITY OF CHAIRMAN.—Subject to
20 paragraphs (2) and (3), the Chairman may, subject
21 to appropriations, appoint and fix the compensation
22 of such professional staff as may be necessary to
23 discharge the responsibilities of the Board.

1 “(2) NUMBER.—Not more than 10 professional
2 staff members may be appointed under this sub-
3 section.

4 “(3) TITLE 5.—Professional staff members may
5 be appointed without regard to the provisions of title
6 5, United States Code, governing appointments in
7 the competitive service, and may be paid without re-
8 gard to the provisions of chapter 51 and subchapter
9 III of chapter 53 of such title relating to classifica-
10 tion and General Schedule pay rates, except that no
11 individual so appointed may receive pay in excess of
12 the annual rate of basic pay payable for GS–18 of
13 the General Schedule.

14 **“SEC. 607. SUPPORT SERVICES.**

15 “(a) GENERAL SERVICES.—To the extent permitted
16 by law and requested by the Chairman, the Administrator
17 of General Services shall provide the Board with necessary
18 administrative services, facilities, and support on a reim-
19 bursable basis.

20 “(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY
21 ASSESSMENT SERVICES.—The Comptroller General, the
22 Librarian of Congress, and the Director of the Office of
23 Technology Assessment shall, to the extent permitted by
24 law and subject to the availability of funds, provide the
25 Board with such facilities, support, funds and services, in-

cluding staff, as may be necessary for the effective performance of the functions of the Board.

“(c) **ADDITIONAL SUPPORT.**—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

“(d) **MAILS.**—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(e) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be prescribed by the Board, the Chairman may, subject to appropriations, procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

“SEC. 608. REPORT.

“The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.

1 **“SEC. 610. TERMINATION OF THE BOARD.**

2 “The Board shall cease to exist not later than one
3 year after the date on which the Secretary begins disposal
4 of spent nuclear fuel or high-level radioactive waste in the
5 repository.

6 **“TITLE VII—MANAGEMENT**
7 **REFORM**

8 **“SEC. 701. MANAGEMENT REFORM INITIATIVES.**

9 “(a) IN GENERAL.—The Secretary is directed to take
10 actions as necessary to improve the management of the
11 civilian radioactive waste management program to ensure
12 that the program is operated, to the maximum extent
13 practicable, in like manner as a private business.

14 “(b) SITE CHARACTERIZATION.—The Secretary shall
15 employ, on an on-going basis, integrated performance
16 modeling to identify appropriate parameters for the re-
17 maining site characterization effort and to eliminate stud-
18 ies of parameters that are shown not to affect long-term
19 repository performance.

20 **“SEC. 702. REPORTING.**

21 “(a) INITIAL REPORT.—Within 180 days of the date
22 of enactment of this Act, the Secretary shall report to
23 Congress on its planned actions for implementing the pro-
24 visions of this Act, including the development of the Inte-
25 grated Waste Management System. Such report shall
26 include—

1 “(1) an analysis of the Secretary’s progress in
2 meeting its statutory and contractual obligation to
3 accept title to, possession of, and delivery of spent
4 nuclear fuel and high-level radioactive waste begin-
5 ning no later than June 30, 2003, and in accordance
6 with the acceptance schedule;

7 “(2) a detailed schedule and timeline showing
8 each action that the Secretary intends to take to
9 meet the Secretary’s obligations under this Act and
10 the contracts;

11 “(3) a detailed description of the Secretary’s
12 contingency plans in the event that the Secretary is
13 unable to meet the planned schedule and timeline;
14 and

15 “(4) an analysis by the Secretary of its funding
16 needs for fiscal years 2000 through 2004.

17 “(b) ANNUAL REPORTS.—On each anniversary of the
18 submittal of the report required by subsection (a), the Sec-
19 retary shall make annual reports to the Congress for the
20 purpose of updating the information contained in such re-
21 port. The annual reports shall be brief and shall notify
22 the Congress of—

23 “(1) any modifications to the Secretary’s sched-
24 ule and timeline for meeting its obligations under
25 this Act;

1 “(2) the reasons for such modifications, and the
2 status of the implementation of any of the Sec-
3 retary’s contingency plans; and

4 “(3) the Secretary’s analysis of its funding
5 needs for the ensuing 5 fiscal years.”.

6 **SEC. 2. CONTINUATION OF CONTRACTS.**

7 Subsequent to the date of enactment of this Act, the
8 contracts executed under section 302(a) of the Nuclear
9 Waste Policy Act of 1982 shall continue in effect under
10 this Act in accordance with their terms except to the ex-
11 tent that the contracts have been modified by the parties
12 to the contract.

○